

SENATE BILL NO. 352—COMMITTEE ON JUDICIARY

MARCH 23, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions governing mechanics' and materialmen's liens. (BDR 9-866)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to liens; revising provisions governing the commencement of certain work; revising provisions concerning claims of a lien; revising provisions relating to the attachment of certain liens to property; revising the requirements of a surety bond; revising certain notice provisions; revising provisions concerning the waiver of certain rights or obligations; revising provisions governing the waiver and release of a claim of a lien; making various other changes pertaining to liens; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 1** of this bill amends the existing definition of "agent of the owner." (NRS 108.22104)

**Section 2** of this bill amends the existing definition of "commencement of construction" to provide that construction will also be considered to have begun once a notice of commencement of construction is filed with the county recorder. (NRS 108.22112)

**Sections 3-5** of this bill make certain technical revisions to existing definitions of certain terms. (NRS 108.22116, 108.22164, 108.22168)

**Section 6** of this bill provides that a lien claimant may not include certain costs of work, materials or equipment for a claim of lien after termination of a contract but may include overhead and profit in the lien. (NRS 108.222)

**Section 7** of this bill provides that a deed of trust which attached to the property before the work of improvement is preferred to a mechanic's or materialman's lien if the holder of the deed of trust deposits the funds necessary to pay for the work of improvement in an account administered by the construction control or if the owner sets aside funds necessary to pay for the work of improvement.

**Section 8** of this bill provides a definition of the term "nonresidential construction project." (NRS 108.226)



Sections 9 and 10 of this bill make certain revisions to clarify certain provisions relating to a frivolous notice of lien and a work stoppage. (NRS 108.2275, 108.2403)

Sections 11 and 12 of this bill reduce the amount required for a surety bond. (NRS 108.2415, 108.2425)

Section 13 of this bill: (1) revises the contents of a notice of right to lien; (2) provides for the contents of a notice of prime contractor; (3) provides for circumstances under which a lien claimant does not have to provide a notice of right to lien; and (4) provides for certain limitations on recovery if the lien claimant fails to provide a notice of right to lien when it is required. (NRS 108.245)

Section 14 of this bill requires owners and prime contractors to provide certain information to a contractor or subcontractor if the work, materials or equipment is covered by an insurance policy and provides that a contractor or subcontractor can terminate a contract or refuse to enter a contract if such information is not provided.

Section 14 also provides limitations on certain indemnity and hold-harmless provisions in contracts and provides for notification by a prime contractor or owner of deficient work of the contractor or subcontractor. (NRS 108.2453)

Section 15 of this bill revises the contents of certain waivers and releases for a lien claim and revises the provisions governing when certain waivers should be executed by a lien claimant. (NRS 108.2457)

---

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** NRS 108.22104 is hereby amended to read as follows:

108.22104 “Agent of the owner” means every architect, builder, contractor, *construction manager*, engineer, geologist, land surveyor, lessee, miner, *property manager*, subcontractor or other person ~~having~~:

1. *Having* charge or control of the property, improvement or work of improvement of the owner, or any part thereof ~~;~~ *or*

2. *Who contracts for, causes or allows a work of improvement or any part thereof to be constructed, altered or repaired upon the property, improvement or work of improvement of the owner.*

**Sec. 2.** NRS 108.22112 is hereby amended to read as follows:

108.22112 “Commencement of construction” means the date on which:

1. Work performed ~~;~~ ~~or~~

~~2. Materials~~ *or materials* or equipment furnished in connection with a work of improvement ~~;~~

~~↪~~ is visible from a reasonable inspection of the ~~site~~ *property*; *or*

2. *A notice of commencement of construction is recorded in the office of the county recorder of the county where the property is located,*

*↪ whichever occurs first.*

**Sec. 3.** NRS 108.22116 is hereby amended to read as follows:

108.22116 “Completion of the work of improvement” means:



1 1. The occupation or use by the owner, an agent of the owner  
2 or a representative of the owner of the work of improvement,  
3 accompanied by the cessation of all work on the work of  
4 improvement;

5 2. The acceptance by the owner, an agent of the owner or a  
6 representative of the owner of the work of improvement,  
7 accompanied by the cessation of all work on the work of  
8 improvement; or

9 3. The cessation of all work on a work of improvement for 30  
10 consecutive days, provided a notice of completion is timely  
11 recorded and served *pursuant to NRS 108.228* and the work is not  
12 resumed under the same contract.

13 **Sec. 4.** NRS 108.22164 is hereby amended to read as follows:

14 108.22164 "Prime contractor" means:

15 1. A person who contracts with an owner or a lessee of  
16 property to provide work, materials or equipment to be used for the  
17 improvement of the property or in the construction, alteration or  
18 repair of a work of improvement; or

19 2. A person who is an owner of the property, is licensed as a  
20 general *engineering contractor or a general building* contractor  
21 pursuant to chapter 624 of NRS and provides work, materials or  
22 equipment to be used for the improvement of the property or in the  
23 construction, alteration or repair of a work of improvement.

24 **Sec. 5.** NRS 108.22168 is hereby amended to read as follows:

25 108.22168 "Principal," as pertaining to a surety bond, means  
26 ~~{the debtor of the lien claimant or a party in interest in the property~~  
27 ~~subject to the lien}~~ *a person* whose name and signature appear as  
28 principal on a surety bond.

29 **Sec. 6.** NRS 108.222 is hereby amended to read as follows:

30 108.222 1. Except as otherwise provided in ~~{subsection 2,}~~  
31 *this section*, a lien claimant has a lien upon the property, any  
32 improvements for which the work, materials and equipment were  
33 furnished or to be furnished, and any construction disbursement  
34 account established pursuant to NRS 108.2403, for:

35 (a) If the parties agreed, by contract or otherwise, upon a  
36 specific price or method for determining a specific price for some or  
37 all of the work, material and equipment furnished or to be furnished  
38 by or through the lien claimant, the unpaid balance of the price  
39 agreed upon for such work, material or equipment, as the case may  
40 be, whether performed, furnished or to be performed or furnished at  
41 the instance of the owner or his agent; and

42 (b) If the parties did not agree, by contract or otherwise, upon a  
43 specific price or method for determining a specific price for some or  
44 all of the work, material and equipment furnished or to be furnished  
45 by or through the lien claimant, including, without limitation, any



\* S B 3 5 2 R 1 \*

1 additional or changed work, material or equipment, an amount equal  
2 to the fair market value of such work, material or equipment, as the  
3 case may be, including a reasonable allowance for overhead and a  
4 profit, whether performed, furnished or to be performed or furnished  
5 at the instance of the owner or at the instance of his agent.

6 2. *If a lien claimant's contract is terminated, the lien may not*  
7 *include the costs of work, materials or equipment that the lien*  
8 *claimant has not furnished and will not furnish for the work of*  
9 *improvement unless the lien claimant has or will become indebted*  
10 *for the work, materials or equipment. This subsection does not*  
11 *preclude a lien claimant from including in the lien any overhead*  
12 *and profit that the lien claimant would otherwise be entitled to*  
13 *recover under the contract, at law or in equity.*

14 3. If a contractor or professional is required to be licensed  
15 pursuant to the provisions of NRS to perform his work, the  
16 contractor or professional will only have a lien pursuant to  
17 subsection 1 if he is licensed to perform the work.

18 **Sec. 7.** NRS 108.225 is hereby amended to read as follows:

19 108.225 1. ~~The~~ *Except as otherwise provided in this*  
20 *section, the* liens provided for in NRS 108.221 to 108.246,  
21 inclusive, are preferred to:

22 (a) Any lien, mortgage or other encumbrance which may have  
23 attached to the property after the commencement of construction of  
24 a work of improvement.

25 (b) Any lien, mortgage or other encumbrance of which the lien  
26 claimant had no notice and which was unrecorded against the  
27 property at the commencement of construction of a work of  
28 improvement.

29 2. ~~Every~~ *Except as otherwise provided in this section, every*  
30 *deed of trust,* mortgage or encumbrance imposed upon, or  
31 conveyance made of, property affected by the liens provided for in  
32 NRS 108.221 to 108.246, inclusive, after the commencement of  
33 construction of a work of improvement are subordinate and subject  
34 to the liens provided for in NRS 108.221 to 108.246, inclusive,  
35 regardless of the date of recording the notices of liens.

36 3. *Any deed of trust which may have attached to the property*  
37 *after the commencement of construction of a work of*  
38 *improvement is preferred to the liens provided for in NRS 108.221*  
39 *to 108.246, inclusive, if either of the following conditions set forth*  
40 *in paragraph (a) or (b) is satisfied:*

41 (a) *The holder of the deed of trust deposits all funds necessary*  
42 *to pay for the work of improvement, including funds for additional*  
43 *or changed work, materials or equipment, in an account which is*  
44 *dedicated to the work of improvement, administered by a*  
45 *construction control and used only to pay a lien claimant for work,*



1 *materials and equipment furnished or to be furnished to construct*  
2 *the work of improvement. Upon written request of a lien claimant,*  
3 *within 5 days:*

4 *(1) The owner shall provide, in writing:*

5 *(I) The name, address and telephone number of the*  
6 *holder of the deed of trust;*

7 *(II) The name and address of the bank or financial*  
8 *institution in which the funds are deposited;*

9 *(III) The bank account number in which the funds are*  
10 *deposited;*

11 *(IV) The name and address of the construction control*  
12 *and the name of the person administering disbursements from the*  
13 *account for the construction control; and*

14 *(V) An acknowledgment, signed by the holder of the*  
15 *deed of trust and the construction control, that the funds deposited*  
16 *in the account cannot be used for any purpose other than to pay a*  
17 *lien claimant for work, materials and equipment furnished or to*  
18 *be furnished to construct the work of improvement; and*

19 *(2) The construction control shall provide an accounting of*  
20 *all amounts deposited with the construction control and all*  
21 *disbursements of amounts made by the construction control.*

22 *(b) The owner agrees, in a writing signed by the owner and the*  
23 *holder of the deed of trust, that money equal to the amount*  
24 *necessary to pay the cost of the work of improvement, including*  
25 *money for additional or changed work, materials or equipment,*  
26 *exists and has been dedicated to, set aside for and is immediately*  
27 *accessible for the sole benefit of the work of improvement to pay a*  
28 *lien claimant for work, materials and equipment furnished or to*  
29 *be furnished to construct the work of improvement. Upon written*  
30 *request of a lien claimant, within 5 days:*

31 *(1) The owner shall provide, in writing:*

32 *(I) The name, address and telephone number of the*  
33 *holder of the deed of trust;*

34 *(II) The name and address of the bank or financial*  
35 *institution in which the money is deposited;*

36 *(III) The bank account number in which the money is*  
37 *deposited; and*

38 *(IV) An acknowledgment, signed by the owner and the*  
39 *holder of the deed of trust that the money deposited in the account*  
40 *cannot be used for any purpose other than to pay a lien claimant*  
41 *for work, materials and equipment furnished or to be furnished to*  
42 *construct the work of improvement; and*

43 *(2) The holder of the deed of trust shall provide an*  
44 *accounting of all amounts deposited and all disbursements of*  
45 *amounts from the account.*



1     4. *If an owner defaults under the loan agreement that is*  
2 *secured by a deed of trust, within 30 days after the default, the*  
3 *holder of the deed of trust shall pay from the account established*  
4 *pursuant to paragraph (a) or (b) of subsection 3, as applicable,*  
5 *any amount owed to a lien claimant for work, materials and*  
6 *equipment furnished or to be furnished to construct the work of*  
7 *improvement.*

8     5. *If a deed of trust, mortgage or other encumbrance that*  
9 *attached to the property before or after the commencement of*  
10 *construction of the work of improvement is before a lien provided*  
11 *for in NRS 108.221 to 108.246, inclusive, and such deed of trust,*  
12 *mortgage or other encumbrance is foreclosed upon, the lien*  
13 *recorded pursuant to NRS 108.226:*

14     (a) *Remains attached to the property after the foreclosure until*  
15 *the lien is paid or satisfied; and*

16     (b) *May be perfected by the lien claimant and the lien claimant*  
17 *may foreclose his lien pursuant to the provisions of NRS 108.221*  
18 *to 108.246, inclusive.*

19     **Sec. 8.** NRS 108.226 is hereby amended to read as follows:

20     108.226 1. To perfect his lien, a lien claimant must record his  
21 notice of lien in the office of the county recorder of the county  
22 where the property or some part thereof is located in the form  
23 provided in subsection 5:

24     (a) Within 90 days after the date on which the latest of the  
25 following occurs:

26         (1) The completion of the work of improvement;

27         (2) The last delivery of material or furnishing of equipment  
28 by the lien claimant for the work of improvement; or

29         (3) The last performance of work by the lien claimant for the  
30 work of improvement; or

31     (b) Within 40 days after the recording of a valid notice of  
32 completion, if the notice of completion is recorded and served in the  
33 manner required pursuant to NRS 108.228.

34     2. The notice of lien must contain:

35     (a) A statement of the lienable amount after deducting all just  
36 credits and offsets.

37     (b) The name of the owner if known.

38     (c) The name of the person by whom he was employed or to  
39 whom he furnished the material or equipment.

40     (d) A brief statement of the terms of payment of his contract.

41     (e) A description of the property to be charged with the notice of  
42 lien sufficient for identification.

43     3. The notice of lien must be verified by the oath of the lien  
44 claimant or some other person. The notice of lien need not be  
45 acknowledged to be recorded.



\* S B 3 5 2 R 1 \*

## Assessor's Parcel Numbers

The undersigned claims a lien upon the property described in this notice for work, materials or equipment furnished or to be furnished for the improvement of the property:

2. The total amount of all additional or changed work, materials

3. The total amount of all payments received to date is: \$ .....

offsets, is: \$.....

6. The name of the person by whom the lien claimant was

employed or to whom the lien claimant furnished or agreed to

furnish work, materials or equipment is: .....

7. A brief statement of the terms of payment of the lien claimant's

contract is: .....

.....

8. A description of the property to be charged with the lien is: .....

(Print Name of Lien Claimant)

By: .....

(Authorized Signature)

State of Nevada )  
 ) ss.  
County of ..... )

.....(print name), being first duly sworn  
on oath according to law, deposes and says:

I have read the foregoing Notice of Lien, know the contents thereof and state that the same is true of my own personal



1 knowledge, except those matters stated upon information and belief,  
2 and, as to those matters, I believe them to be true.

3  
4 .....  
5 (Authorized Signature of Lien Claimant)  
6

7 Subscribed and sworn to before me  
8 this ..... day of the month of ..... of the year .....  
9

10 .....  
11 Notary Public in and for  
12 the County and State  
13

14 6. Except as otherwise provided in subsection 7, if a work of  
15 improvement involves the construction, alteration or repair of  
16 multifamily or single-family residences, including, without  
17 limitation, apartment houses, a lien claimant, except laborers, must  
18 serve a 15-day notice of intent to lien incorporating substantially the  
19 same information required in a notice of lien upon both the owner  
20 and the reputed prime contractor before recording a notice of lien.  
21 Service of the notice of intent to lien must be by personal delivery or  
22 certified mail and will extend the time for recording the notice of  
23 lien described in subsection 1 by 15 days. A notice of lien for  
24 materials or equipment furnished or to be furnished for work or  
25 services performed or to be performed, except labor, for a work of  
26 improvement involving the construction, alteration or repair of  
27 multifamily or single-family residences may not be perfected or  
28 enforced pursuant to NRS 108.221 to 108.246, inclusive, unless the  
29 15-day notice of intent to lien has been given to the owner.

30 7. The provisions of subsection 6 do not apply to the  
31 construction of any nonresidential construction project. *As used in*  
32 *this subsection, "nonresidential construction project" means an*  
33 *improvement or work of improvement which is not designed or*  
34 *intended to be a permanent residence of a natural person.*

35 **Sec. 9.** NRS 108.2275 is hereby amended to read as follows:

36 108.2275 1. The debtor of the lien claimant or a party in  
37 interest in the property subject to the notice of lien who believes the  
38 notice of lien is frivolous and was made without *a* reasonable  
39 ~~cause,~~ *basis in law or fact,* or that *there is no reasonable basis in*  
40 *law or fact to support* the amount *or a portion of the amount* of the  
41 notice of lien, ~~is excessive,~~ may apply by motion to the district  
42 court for the county where the property or some part thereof is  
43 located for an order directing the lien claimant to appear before the  
44 court to show cause why the relief requested should not be granted.

45 2. The motion must:



\* S B 3 5 2 R 1 \*



(a) Set forth in detail the legal and factual grounds upon which relief is requested; and

(b) Be supported by:

(1) A notarized affidavit signed by the applicant setting forth a concise statement of the facts upon which the motion is based; and

(2) Documentary evidence in support of the affidavit, if any.

3. If the court issues an order for a hearing, the applicant shall serve notice of the application and order of the court on the lien claimant within 3 days after the court issues the order. The court shall conduct the hearing within not less than 15 days or more than 30 days after the court issues the order for a hearing.

4. The order for a hearing must include a statement that if the lien claimant fails to appear at the time and place noted, the notice of lien will be released with prejudice and the lien claimant will be ordered to pay the reasonable costs the applicant incurs in bringing the motion, including reasonable attorney's fees.

5. If, at the time the application is filed, an action to foreclose the notice of lien has not been filed, the clerk of the court shall assign a number to the application and obtain from the applicant a filing fee of \$85. *A lien claimant may file an action to foreclose the notice of lien in the action to show cause.* If an action has been filed to foreclose the notice of lien before the application was filed pursuant to this section, the application must be made a part of the action to foreclose the notice of lien.

6. If, after a hearing on the matter, the court determines that:

(a) The notice of lien is frivolous and was made without *a* reasonable ~~cause~~ *basis in fact or law*, the court shall make an order releasing the lien and awarding costs and reasonable attorney's fees to the applicant for bringing the motion.

(b) ~~The~~ *There is no reasonable basis in fact or law to support the* amount of the notice of lien, ~~is excessive~~, the court may make an order reducing the notice of lien ~~to~~ *by* an amount deemed appropriate by the court and awarding costs and reasonable attorney's fees to the applicant for bringing the motion.

(c) The notice of lien is not frivolous and was made with *a* reasonable ~~cause~~ *basis in law or fact* or that *there is a reasonable basis in law or fact to support* the amount of the notice of lien, ~~is not excessive~~, the court shall make an order awarding costs and reasonable attorney's fees to the lien claimant for defending the motion.

7. Proceedings conducted pursuant to this section do not affect any other rights and remedies otherwise available to the parties.

8. An appeal may be taken from an order made pursuant to subsection 6. A stay may not be granted if the district court does not release the lien pursuant to subsection 6.



9. If an order releasing or reducing a notice of lien is entered by the court, and the order is not stayed, the applicant may, within 5 days after the order is entered, record a certified copy of the order in the office of the county recorder of the county where the property or some part thereof is located. The recording of a certified copy of the order releasing or reducing a notice of lien is notice to any interested party that the notice of lien has been released or reduced.

**Sec. 10.** NRS 108.2403 is hereby amended to read as follows:

108.2403 1. Except as otherwise provided in NRS 108.2405, before a lessee may cause a work of improvement to be constructed, altered or repaired upon property that he is leasing, the lessee shall:

(a) Record a notice of posted security with the county recorder of the county where the property is located upon which the improvement is or will be constructed, altered or repaired; and

(b) Either:

(1) Establish a construction disbursement account and:

(I) Fund the account in an amount equal to the total cost of the work of improvement, but in no event less than the total amount of the prime contract;

(II) Obtain the services of a construction control to administer the construction disbursement account; and

(III) Notify each person who gives the lessee a notice of right to lien of the establishment of the construction disbursement account as provided in paragraph (f) of subsection 2; or

(2) Record a surety bond for the prime contract that meets the requirements of subsection 2 of NRS 108.2415 and notify each person who gives the lessee a notice of right to lien of the recording of the surety bond as provided in paragraph (f) of subsection 2.

2. The notice of posted security required pursuant to subsection 1 must:

(a) Identify the name and address of the lessee;

(b) Identify the location of the improvement and the address, legal description and assessor's parcel number of the property upon which the improvement is or will be constructed, altered or repaired;

(c) Describe the nature of the lessee's interest in:

(1) The property upon which the improvement is or will be constructed, altered or repaired; and

(2) The improvement on such property;

(d) If the lessee establishes a construction disbursement account pursuant to subsection 1, include:

(1) The name and address of the construction control;

(2) The date that the lessee obtained the services of the construction control and the total amount of funds in the construction disbursement account; and



\* S B 3 5 2 R 1 \*

(3) The number of the construction disbursement account, if any;

(e) If the lessee records a surety bond pursuant to subsection 1, include:

(1) The name and address of the surety;

(2) The surety bond number;

(3) The date that the surety bond was recorded in the office of the county recorder of the county where the property is located upon which the improvement is or will be constructed, altered or repaired;

(4) The book and the instrument or document number of the recorded surety bond; and

(5) A copy of the recorded surety bond with the notice of posted security; and

(f) Be served upon each person who gives a notice of right to lien within 10 days after receipt of the notice of right to lien, in one of the following ways:

(1) By personally delivering a copy of the notice of posted security to the person who gives a notice of right to lien at the address identified in the notice of right to lien; or

(2) By mailing a copy of the notice of posted security by certified mail, return receipt requested, to the person who gives a notice of right to lien at the address identified in the notice of right to lien.

3. If a lessee fails to satisfy the requirements of subsection 1 of this section or subsection 2 of NRS 108.2407 ***at any time during the construction of a work of improvement***, the prime contractor who has furnished or will furnish materials or equipment for the work of improvement may stop work. ***If the prime contractor stops work, the prime contractor's lower-tiered subcontractors and suppliers may stop work.***

4. If the lessee:

(a) Satisfies the requirements of subsection 1 of this section or subsection 2 of NRS 108.2407 within 25 days after any work stoppage, the prime contractor ***and his lower-tiered subcontractors or suppliers*** who stopped work shall resume work and the prime contractor and his lower-tiered subcontractors and suppliers are entitled to compensation for any reasonable costs and expenses that any of them have incurred because of the delay and remobilization; or

(b) Does not satisfy the requirements of subsection 1 of this section or subsection 2 of NRS 108.2407 within 25 days after the work stoppage, the prime contractor ***and his lower-tiered subcontractors and suppliers*** who stopped work may terminate his contract relating to the work of improvement and the prime



\* S B 3 5 2 R 1 \*

contractor and his lower-tiered subcontractors and suppliers are entitled to recover:

(1) The cost of all work, materials and equipment, including any overhead the prime contractor and his lower-tiered subcontractors and suppliers incurred and profit the prime contractor and his lower-tiered subcontractors and suppliers earned through the date of termination;

(2) The balance of the profit the prime contractor and his lower-tiered subcontractors and suppliers would have earned if the contract had not been terminated;

(3) Any interest, costs and attorney's fees that the prime contractor and his lower-tiered subcontractors and suppliers are entitled to pursuant to NRS 108.237; and

(4) Any other amount awarded by a court or other trier of fact.

~~[4.]~~ 5. The rights and remedies provided *to a prime contractor and his lower-tiered subcontractors and suppliers* pursuant to this section are in addition to any other rights and remedies that may exist at law or in equity, including, without limitation, the rights and remedies provided pursuant to NRS 624.606 to 624.630, inclusive.

**Sec. 11.** NRS 108.2415 is hereby amended to read as follows:

108.2415 1. To obtain the release of a lien for which notice of lien has been recorded against the property, the principal and a surety must execute a surety bond in an amount equal to 1.5 times the lienable amount in the notice of lien, which must be in the following form:

(Assessor's Parcel Numbers)

(Title of court and cause, if action has been commenced)

WHEREAS, ..... (name of principal), located at ..... (address of principal), desires to give a bond for releasing the following described property owned by ..... (name of owners) from that certain notice of lien in the sum of \$..... recorded ..... (month) ..... (day) ....., (year), in the office of the recorder in ..... (name of county where the property is located):

(Legal Description)

NOW, THEREFORE, the undersigned principal and surety do hereby obligate themselves to the lien claimant named in the notice of lien, ....., (name of lien claimant) under the conditions prescribed by NRS 108.2413 to 108.2425, inclusive, in



1 the sum of \$..... (1 1/2 x lienable amount), from which sum  
2 they will pay the lien claimant that amount as a court of competent  
3 jurisdiction may adjudge to have been secured by his lien, including  
4 the total amount awarded pursuant to NRS 108.237, but the liability  
5 of the surety may not exceed the penal sum of the surety bond.

6 IN TESTIMONY WHEREOF, the principal and surety have  
7 executed this bond at ....., Nevada, on the ..... day  
8 of the month of ..... of the year .....

9  
10 .....  
11 (Signature of Principal)

12  
13 (Surety Corporation)

14 By.....  
15 (Its Attorney in Fact)

16  
17 State of Nevada }  
18 } ss.  
19 County of ..... }

20  
21 On ..... (month) ..... (day) ....., (year), before me, the undersigned,  
22 a notary public of this County and State, personally appeared  
23 ..... who acknowledged that he executed the  
24 foregoing instrument as principal for the purposes therein mentioned  
25 and also personally appeared ..... known (or  
26 satisfactorily proved) to me to be the attorney in fact of the surety  
27 that executed the foregoing instrument, known to me to be the  
28 person who executed that instrument on behalf of the surety therein  
29 named, and he acknowledged to me that the surety executed the  
30 foregoing instrument.

31  
32 .....  
33 (Notary Public in and for  
34 the County and State)  
35

36 2. To obtain the release of all prospective ~~[and existing]~~ lien  
37 rights of lien claimants related to a work of improvement, the  
38 principal and a surety must execute and cause to be recorded a  
39 surety bond in an amount equal to ~~[1.5 times]~~ the *total* amount of  
40 the prime contract ~~[which]~~ *to be paid by the owner for the work,*  
41 *material and equipment to be furnished by or through the prime*  
42 *contractor for the improvement or work of improvement. The*  
43 *surety bond* must be in the following form:



\* S B 3 5 2 R 1 \*

(Assessor's Parcel Numbers)

(Title of court and cause, if action has been commenced)

WHEREAS, ..... (name of principal), located at  
..... (address of principal), desires to give a  
bond for releasing the following described property owned by  
..... (name of owners) from all prospective  
and existing lien rights and notices of liens arising from materials,  
equipment or work provided or to be provided under the prime  
contract described as follows:

(Parties to the Prime Contract)

(Amount of the Prime Contract)

(Date of the Prime Contract)

(Summary of Terms of the Prime Contract)

WHEREAS, the property that is the subject of the surety bond is  
described as follows:

(Legal Description)

NOW, THEREFORE, the undersigned principal and surety do  
hereby obligate themselves in the sum of \$..... ~~{(1-1/2-x)}~~ *(the  
total amount of the prime contract ~~to~~ to be paid by the owner for  
the work, material and equipment to be furnished by or through  
the prime contractor for the improvement or work of  
improvement)* to all prospective and existing lien claimants who  
have provided or hereafter provide materials, equipment or work  
under the prime contract, from which sum the principal and surety  
will pay the lien claimants the lienable amount that a court of  
competent jurisdiction may determine is owed to each lien claimant,  
and such additional amounts as may be awarded pursuant to NRS  
108.237, but the liability of the surety may not exceed the penal sum  
of the surety bond.

IN TESTIMONY WHEREOF, the principal and surety have  
executed this bond at ....., Nevada, on the ..... day  
of the month of ..... of the year .....

.....  
(Signature of Principal)

(Surety Corporation)

By.....  
(Its Attorney in Fact)



1 State of Nevada }  
2 } ss.  
3 County of ..... }  
4

5 On ..... (month) ..... (day), ..... (year), before me, the undersigned,  
6 a notary public of this County and State, personally appeared  
7 ..... who acknowledged that he executed the  
8 foregoing instrument as principal for the purposes therein mentioned  
9 and also personally appeared ..... known (or  
10 satisfactorily proved) to me to be the attorney in fact of the surety  
11 that executed the foregoing instrument, known to me to be the  
12 person who executed that instrument on behalf of the surety therein  
13 named, and he acknowledged to me that the surety executed the  
14 foregoing instrument.  
15

16 .....  
17 (Notary Public in and for  
18 the County and State)  
19

20 3. The principal must record the surety bond in the office of the  
21 county recorder in the county in which the property upon which the  
22 improvement is located, either before or after the commencement of  
23 an action to enforce the lien. A certified copy of the recorded surety  
24 bond shall be deemed an original for purposes of this section.

25 4. Upon the recording of the surety bond, the principal must  
26 serve a file-stamped copy of the recorded surety bond in the  
27 following manner:

28 (a) If a lien claimant has appeared in an action that is pending to  
29 enforce the notice of lien, service must be made by certified or  
30 registered mail, return receipt requested, upon the lien claimant at  
31 the address set forth in the lien and the lien claimant's counsel of  
32 record at his place of business;

33 (b) If a notice of lien is recorded at the time the surety bond is  
34 recorded and no action is pending to enforce the notice of lien,  
35 personal service must be made upon each lien claimant pursuant to  
36 Rule 4 of the Nevada Rules of Civil Procedure; or

37 (c) If no notice of lien is recorded at the time the surety bond is  
38 recorded, service must be made by personal service or certified  
39 mail, return receipt requested, upon each lien claimant and  
40 prospective lien claimant that has provided or thereafter provides the  
41 owner or lessee with a notice of a right to lien. Such service must be  
42 within 10 days after the recording of the surety bond, or the service  
43 of notice of the right to lien upon the owner by a lien claimant,  
44 whichever is later.



5. Failure to serve the surety bond as provided in subsection 4 does not affect the validity of the surety bond, but the statute of limitations on any action on the surety bond, including a motion excepting to the sufficiency of the surety pursuant to NRS 108.2425, is tolled until notice is given.

6. Subject to the provisions of NRS 108.2425, the recording and service of the surety bond pursuant to:

(a) Subsection 1 releases the property described in the surety bond from the lien and the surety bond shall be deemed to replace the property as security for the lien.

(b) Subsection 2 releases the property described in the surety bond from any liens and prospective liens for work, materials or equipment related to the prime contract and the surety bond shall be deemed to replace the property as security for the lien.

**Sec. 12.** NRS 108.2425 is hereby amended to read as follows:

108.2425 1. The lien claimant may, within 15 days after the service of a copy of the surety bond pursuant to subsection 4 of NRS 108.2415, file a motion with the clerk of the court in a pending action, or if no action has been commenced, file a petition with the court, excepting to the sufficiency of the surety or the surety bond, and shall, at the same time and together with that motion or petition, file an affidavit setting forth the grounds and basis of the exceptions to the surety or the surety bond, and shall serve a copy of the motion or petition and a copy of the affidavit upon the principal at the address set forth in the surety bond within 5 business days after the date of filing. A hearing must be had upon the justification of the surety or the surety bond not less than 10 days and not more than 20 days after the filing of the motion or petition. If the court determines that the surety or surety bond is insufficient, the lien claimant's lien will remain against the property or the court may allow the substitution of a sufficient surety and surety bond.

2. If, at any time after the recording of a surety bond pursuant to NRS 108.2415, the surety becomes unauthorized to transact surety business in this State pursuant to NRS 679A.030 or is dropped from the United States Department of the Treasury's Listing of Approved Sureties or there exists any other good cause, a lien claimant or other person having an interest in the surety bond may apply to the district court in a pending action, or commence an action if none is pending, for an order to require the principal to provide additional security or to change, substitute or add securities, or to enforce or change any other matter affecting the security provided by the surety bond.

3. If a court finds that the amount of a surety bond recorded pursuant to NRS **108.2403 or** 108.2415 is insufficient to pay the total amount that may be awarded by the court pursuant to



\* S B 3 5 2 R 1 \*



NRS 108.237, the court shall order the principal to obtain additional security or to change or substitute securities so that the amount of the security provided is ~~[1.5-times]~~ *equal to* the total amount that may be awarded.

4. Any surety that records or consents to the recording of a surety bond pursuant to NRS 108.2415 will remain fully liable to any lien claimant for up to the penal sum of the surety bond regardless of the payment or nonpayment of any surety bond premium.

**Sec. 13.** NRS 108.245 is hereby amended to read as follows:

108.245 1. Except as otherwise provided in ~~[subsection 5,]~~ *subsections 2, 3 and 4*, every lien claimant, other than ~~[one]~~ *a laborer, as defined in NRS 108.2214, or a natural person* who performs only labor, who claims ~~[the benefit of]~~ *a lien pursuant to* NRS 108.221 to 108.246, inclusive, shall, at any time *before or* after the first delivery of material *or equipment* or *the* performance of work ~~[or services under his contract,]~~ *for a work of improvement*, deliver in person or by certified mail to the owner ~~[of the property]~~ *and the prime contractor* a notice of right to lien in substantially the following form:

#### NOTICE OF RIGHT TO LIEN

[To: .....]

~~(Owner's name and address)~~

~~—The]~~

#### *AND REQUEST FOR RECEIPT OF NOTICE OF COMPLETION*

*Name and address of owner: .....*

*Name and address of tenant, if known: .....*

*Name and address of prime contractor, if known: .....*

*Name and address of the customer of the undersigned: .....*

*Name and address of the property to be improved: .....*

*Description of work, materials or equipment: .....*

*Anticipated value of work, materials or equipment: .....*

*Certified Return Receipt Number: .....*

**NOTICE IS HEREBY GIVEN** that the undersigned ~~[notifies you that he]~~ has ~~[supplied]~~ *furnished or intends to furnish* materials or equipment or *has* performed work or ~~[services as follows:~~

.....  
~~(General description of materials, equipment, work or services)]~~



*intends to perform work (described above), for the improvement of property ( identified ~~[[as (property description or street address)]]~~ above) under contract with ~~[[ (general contractor or subcontractor).]]~~ the customer of the undersigned (identified above). This is not a notice that the undersigned has not been or does not expect to be paid, but a notice required by law that the undersigned may, at a future date, record a notice of lien as provided by law against the property if the undersigned is not paid.*

*[.....]  
(Claimant)*

~~A subcontractor or equipment or material supplier who gives such a notice must also deliver in person or send by certified mail a copy of the notice to the prime contractor for information only. The failure by a subcontractor to deliver the notice to the prime contractor is a ground for disciplinary proceedings against the subcontractor under chapter 624 of NRS but does not invalidate the notice to the owner.~~

~~—2.— Such a]~~

*REQUEST IS HEREBY MADE that the owner, pursuant to NRS 108.228, serve on the undersigned a copy or copies of any and all notices of completion the owner or an agent of the owner may cause to be recorded with the office of the county recorder where the property is located with respect to the improvements made.*

*Signature:.....*

*Printed Name:.....*

*Position or Title: .....*

*Company Name: .....*

*Company Address: .....*

*Date Signed:.....*

*2. A lien claimant is not required to provide a notice of right to lien to a prime contractor if:*

*(a) Before the commencement of construction, the prime contractor fails to record against the property a notice of prime contractor in the office of the county recorder of the county where the property is located;*

*(b) The prime contractor fails to continually and openly post the notice of prime contractor on the property in a conspicuous location where it can be seen by all lien claimants on the work of improvement;*

*(c) The notice of prime contractor fails to comply with the provisions of subsection 3; or*



\* S B 3 5 2 R 1 \*

(d) The lien claimant contracts directly with the prime contractor or his agent to perform work or furnish materials or equipment.

3. The notice of prime contractor must include the following:

(a) A first sentence of the notice that conspicuously states in bold, oversized and capitalized font, "PURSUANT TO NRS 108.245, YOU ARE HEREBY NOTIFIED TO GIVE A NOTICE OF RIGHT TO LIEN TO THE PRIME CONTRACTOR IDENTIFIED BELOW";

(b) The name, address, telephone number, facsimile number and license number of the prime contractor and the contact information for the authorized representative of the prime contractor of the work of improvement;

(c) The name and a description of the work of improvement to be constructed by the prime contractor that is sufficient to identify the work to be performed by the prime contractor; and

(d) The common address or a legal description of the property to be improved.

4. A lien claimant is not required to provide an owner a notice of right to lien if the lien claimant contracts directly with the owner or the agent of the owner to perform work or furnish materials or equipment.

5. A notice of right to lien does not constitute a lien or give actual or constructive notice of a lien for any purpose.

~~[3.—No lien for materials or equipment furnished or for work or services performed, except labor, may be perfected or enforced pursuant to NRS 108.221 to 108.246, inclusive, unless the notice has been given.~~

~~—4.]~~ 6. If a lien claimant is required by this section to give notice of right to lien to the owner or prime contractor and fails to give such notice, the lien claimant is not entitled to recover:

(a) The amount of interest awarded by the court to the lien claimant pursuant to NRS 108.237; or

(b) The amount of attorney's fees and costs awarded by the court to the lien claimant pursuant to NRS 108.237,  
↳ whichever is less.

7. The notice need not be verified, sworn to or acknowledged.

~~[5.—A prime contractor or other person who contracts directly with an owner or sells materials directly to an owner is not required to give notice pursuant to this section.~~

~~—6.]~~ 8. A lien claimant who is required by this section to give a notice of right to lien to an owner or a prime contractor and who gives such a notice has ~~[a]~~ the right to perfect his lien pursuant to NRS 108.222 for materials or equipment furnished or for work ~~[or services]~~ performed in the 31 days before the date the notice of right



to lien is given and for the materials or equipment furnished *or to be furnished* or for work ~~[or services]~~ performed *or to be performed* anytime thereafter until the completion of the work of improvement.

**Sec. 14.** NRS 108.2453 is hereby amended to read as follows:

108.2453 1. Except as otherwise provided in NRS 108.221 to 108.246, inclusive, a person , *by any provision in a contract or otherwise*, may not ~~[waive or modify a right,]~~ :

(a) *Be relieved of an* obligation or liability set forth in the provisions of NRS 108.221 to 108.246, inclusive ~~[ ]~~ ; *or*

(b) *Obtain a waiver, modification or impairment from a lien claimant of any of the rights and remedies provided to a lien claimant pursuant to NRS 108.221 to 108.246, inclusive.*

2. A condition, stipulation or provision in a contract or other agreement for the improvement of property or for the construction, alteration or repair of a work of improvement in this State that attempts to do any of the following is contrary to public policy and is void and unenforceable:

(a) Require a lien claimant to waive rights provided by law to lien claimants or to limit the rights provided to lien claimants, other than as expressly provided in NRS 108.221 to 108.246, inclusive;

(b) Relieve a person of an obligation or liability imposed by the provisions of NRS 108.221 to 108.246, inclusive;

(c) Make the contract or other agreement subject to the laws of a state other than this State;

(d) Require any litigation, arbitration or other process for dispute resolution on disputes arising out of the contract or other agreement to occur in a state other than this State; ~~[or]~~

(e) Require a prime contractor ~~[or]~~ , *higher-tiered contractor, subcontractor or lower-tiered subcontractor* to waive, release or extinguish a claim or right that the prime contractor ~~[or]~~ , *higher-tiered contractor, subcontractor or lower-tiered subcontractor* may otherwise possess or acquire for delay, acceleration, disruption or impact damages or an extension of time for delays incurred, for any delay, acceleration, disruption or impact event which was unreasonable under the circumstances, not within the contemplation of the parties at the time the contract was entered into, or for which the prime contractor ~~[or]~~ , *higher-tiered contractor, subcontractor or lower-tiered subcontractor* is not responsible ~~[ ]~~ ; *or*

(f) *Incorporate by reference exhibits, terms or conditions of a higher-tiered contract unless a complete copy of the contract to which the lower-tiered subcontractor will be bound is provided to the subcontractor before the time at which the subcontractor signs the contract.*

3. *If all or part of the work, materials or equipment furnished or to be furnished by a prime contractor, higher-tiered contractor,*



1 *subcontractor or lower-tiered subcontractor is insured by one or*  
2 *more insurance policies provided or to be provided by the owner or*  
3 *a higher-tiered contractor, then before the date on which the*  
4 *prime contractor, higher-tiered contractor, subcontractor or*  
5 *lower-tiered subcontractor begins to furnish work, materials or*  
6 *equipment or before the date a contract is entered into, whichever*  
7 *occurs first, the owner or prime contractor shall provide to the*  
8 *contractor or subcontractor a copy of any insurance policy and*  
9 *endorsements confirming the coverage to be provided and that the*  
10 *prime contractor, higher-tiered contractor, subcontractor or*  
11 *lower-tiered subcontractor are enrolled insureds under the*  
12 *insurance policy.*

13 *4. If the owner or prime contractor fails to provide a*  
14 *contractor or subcontractor with a copy or endorsement of any*  
15 *insurance policy, the prime contractor, higher-tiered contractor,*  
16 *subcontractor or lower-tiered subcontractor may:*

17 *(a) If no contract has been entered into, decline to enter into a*  
18 *contract; or*

19 *(b) If a contract has been entered into, terminate the contract*  
20 *after giving 10 days' notice, in writing, to the other party with*  
21 *whom the contract was made.*

22 *5. A prime contractor, higher-tiered contractor,*  
23 *subcontractor or lower-tiered subcontractor, their lower-tiered*  
24 *subcontractors and the sureties of each may not be held liable for*  
25 *any delays or damages that may result from declining to enter into*  
26 *or terminating a contract pursuant to subsection 4.*

27 *6. Except as otherwise provided in subsection 7, any*  
28 *contractual duty or obligation that a prime contractor, higher-*  
29 *tiered contractor, subcontractor or lower-tiered subcontractor has*  
30 *to indemnify or hold harmless a person for defective or deficient*  
31 *work, materials or equipment furnished by the prime contractor,*  
32 *higher-tiered contractor, subcontractor or lower-tiered*  
33 *subcontractor is limited to the proceeds that may be recovered*  
34 *from the insurance policy provided for the work of improvement,*  
35 *including any insurance provided by the prime contractor, higher-*  
36 *tiered contractor, subcontractor or lower-tiered subcontractor.*

37 *7. The limitation pursuant to subsection 6 does not limit any*  
38 *contractual duty a prime contractor, higher-tiered contractor,*  
39 *subcontractor or lower-tiered subcontractor may have to warranty*  
40 *any defective or deficient work, materials or equipment furnished*  
41 *by him. The contractual warranty to be provided must not exceed 2*  
42 *years from the date the work is substantially completed or the*  
43 *materials and equipment were last furnished, but a manufacturer*  
44 *of materials or equipment may provide a warranty longer or*  
45 *shorter than is provided for in this section.*



\* S B 3 5 2 R 1 \*

1       8. *An owner or prime contractor may provide written notice*  
2 *to a prime contractor, higher-tiered contractor, subcontractor or*  
3 *lower-tiered subcontractor that work, materials or equipment*  
4 *furnished is defective or deficient. Such notice must be provided*  
5 *during the period established by the contract during which the*  
6 *work, materials or equipment is under warranty.*

7       **Sec. 15.** NRS 108.2457 is hereby amended to read as follows:

8       108.2457 1. Any term of a contract that attempts to waive or  
9 impair the lien rights of a contractor, subcontractor or supplier is  
10 void. An owner, contractor or subcontractor by any term of a  
11 contract, or otherwise, may not obtain the waiver of, or impair the  
12 lien rights of, a contractor, subcontractor or supplier, except as  
13 provided in this section. ~~[Any written consent given by a lien~~  
14 ~~claimant that waives or limits his lien rights is unenforceable unless~~  
15 ~~the lien claimant:~~

16 ~~—(a) Executes and delivers a waiver and release that is signed by~~  
17 ~~the lien claimant or his authorized agent in the form set forth in this~~  
18 ~~section; and~~

19 ~~—(b) In the case of a conditional waiver and release, receives~~  
20 ~~payment of the amount identified in the conditional waiver and~~  
21 ~~release.]~~

22       2. ~~[An]~~ Any oral or written statement ~~[purporting]~~ *or consent*  
23 *given by a lien claimant that purports* to waive, release or  
24 otherwise adversely affect the *lien* rights of ~~[a]~~ *the* lien claimant is  
25 not enforceable and does not create any estoppel or impairment of a  
26 lien unless:

27       (a) ~~[There is]~~ *The lien claimant delivers* a written waiver and  
28 release *that is signed by the lien claimant or his authorized agent*  
29 in the form set forth in this section; and

30       (b) The lien claimant received payment ~~[for the lien]~~ and then  
31 only to the extent of the payment received.

32       3. Payment in the form of a two-party joint check made  
33 payable to a lien claimant and another joint payee who are in privity  
34 with each other shall, upon endorsement by the lien claimant and the  
35 joint check clearing the bank upon which it is drawn, be deemed to  
36 be payment to the lien claimant for only:

37       (a) The amount of the joint check;

38       (b) The amount the payor intended to pay the lien claimant out  
39 of the joint check; or

40       (c) The balance owed to the lien claimant for the work, materials  
41 or equipment covered by the joint check, whichever is less.

42       4. This section does not affect the enforceability of either an  
43 accord and satisfaction regarding a bona fide dispute or any  
44 agreement made in settlement of an action pending in any court or  
45 arbitration, provided the accord and satisfaction or settlement makes



\* S B 3 5 2 R 1 \*

specific reference to the lien rights waived or impaired and is in a writing signed by the lien claimant.

5. The waiver and release given by any lien claimant is **void and** unenforceable unless it is in the following forms in the following circumstances:

(a) Where the lien claimant is required to execute a waiver and release in exchange for or to induce the payment of a progress billing and the lien claimant is not in fact paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release must be in the following form:

### CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

Property Name: .....  
Property Location: .....  
Undersigned's Customer: .....  
Invoice/Payment Application Number: .....  
**Invoice/Payment Application Period:** .....  
Payment Amount: .....

Upon receipt by the undersigned of a check in the above-referenced Payment Amount payable to the undersigned, and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release and the undersigned shall be deemed to waive any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the undersigned has on the above-described Property to the following extent:

This release covers a progress payment for ~~the~~ **certain** work, materials or equipment furnished by the undersigned to the Property or to the Undersigned's Customer **during the Invoice or Payment Application Period** which are the subject of the Invoice or Payment Application **for which payment is being sought**, but only to the extent of the Payment Amount or such portion of the Payment Amount as the undersigned is actually paid **for such work, materials or equipment**, and does not cover any retention withheld, any items, modifications or changes pending approval, disputed items and claims, or items furnished that are not paid. Before any recipient of this document relies on it, he should verify evidence of payment to the undersigned. The undersigned warrants that he either has already paid or will use the money he receives from this progress payment promptly to pay in full all his laborers,



~~[Dated: .....~~

~~(Company Name)~~

~~By:~~

~~Its:~~

*Signature:*.....

*Printed Name:*.....

***Position/Title:***.....

**Company Name:**.....

**Company Address:.....**

*Date Signed:*.....

**STATE OF NEVADA**

) *ss.*

**COUNTY OF.....)**

On the ..... (day) of ..... (month), ..... (year),  
 ..... (name) personally appeared and signed the  
 Conditional Waiver and Release Upon Progress Payment before  
 me.

***NOTARY PUBLIC in and for said  
County and State***

(b) Where the lien claimant has been paid in full or a part of the amount provided for in the progress billing, the waiver and release of the amount paid must be in the following form:

# UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

Property Name:.....

Property Location: .....

Undersigned's Customer: .....

Invoice/Payment Application Number: .....

**Invoice/Payment Application Period:** .....

Payment Amount: .....





The undersigned has been paid and has received a progress payment ~~in the above referenced Payment Amount~~ for ~~all~~ *certain* work, materials and equipment the undersigned furnished to his Customer for the above-described Property and does hereby waive and release any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the undersigned has on the above-described Property to the following extent:

This release covers a progress payment for ~~the~~ *certain* work, materials and equipment furnished by the undersigned to the Property or to the Undersigned's Customer *during the Invoice or Payment Application Period* which are the subject of the Invoice or Payment Application ~~for which payment was sought~~, but only to the extent of the Payment Amount or such portion of the Payment Amount as the undersigned ~~is~~ *was* actually paid ~~for such work, materials or equipment~~ and does not cover any retention withheld, any items, modifications or changes pending approval, disputed items and claims, or items furnished that ~~are~~ *were* not paid. The undersigned warrants that he either has already paid or will use the money he ~~receives~~ *received* from ~~this~~ *the* progress payment *to* promptly ~~to~~ pay in full all his laborers, subcontractors, materialmen and suppliers for all work, materials or equipment that are the subject of this waiver and release.

~~Dated:~~ .....

.....  
(Company Name)

By: .....

Its: .....

*Signature:.....*

*Printed Name:.....*

*Position/Title:.....*

*Company Name:.....*

*Company Address:.....*

*Date Signed:.....*

*STATE OF NEVADA* )

) ss.

*COUNTY OF.....*)

*On the ..... (day) of ..... (month), ..... (year),  
..... (name) personally appeared and signed the*



*Unconditional Waiver and Release Upon Progress Payment before me.*

.....  
*NOTARY PUBLIC in and for said  
County and State*

(Each unconditional waiver and release must contain the following language, in type at least as large as the largest type otherwise on the document:)

Notice: ~~[This document waives rights unconditionally and states that you have been paid for giving up those rights.]~~ This document is enforceable against you if you sign it to the extent of the Payment Amount or the amount received. If you have not been paid, use a conditional release form.

(c) Where the lien claimant is required to execute a waiver and release in exchange for or to induce payment of a final billing and the lien claimant is not paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release must be in the following form:

CONDITIONAL WAIVER AND RELEASE  
UPON FINAL PAYMENT

Property Name: .....  
Property Location: .....  
Undersigned's Customer: .....  
Invoice/Payment Application Number: .....  
Payment Amount: .....  
~~[Payment Period: .....]~~  
Amount of Disputed Claims: .....

Upon receipt by the undersigned of a check in the above-referenced Payment Amount payable to the undersigned, and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release and the undersigned shall be deemed to waive any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the undersigned has on the above-described Property to the following extent:



\* S B 3 5 2 R 1 \*

This release covers the final payment to the undersigned for all work, materials or equipment furnished by the undersigned to the Property or to the Undersigned's Customer and does not cover payment for Disputed Claims, if any. Before any recipient of this document relies on it, he should verify evidence of payment to the undersigned. The undersigned warrants that he either has already paid or will use the money he receives from the final payment promptly to pay in full all his laborers, subcontractors, materialmen and suppliers for all work, materials or equipment that are the subject of this waiver and release.

**Dated:** .....  
.....  
..... (Company Name)  
.....  
**By:** .....  
.....  
**Its:** .....  
*Signature:* .....  
*Printed Name:* .....  
*Position/Title:* .....  
*Company Name:* .....  
*Company Address:* .....  
*Date Signed:* .....

**STATE OF NEVADA** )  
 ) ss.  
**COUNTY OF**.....)

*On the ..... (day) of ..... (month), ..... (year),  
..... (name) personally appeared and signed the  
Conditional Waiver and Release Upon Final Payment before me.*

.....  
**NOTARY PUBLIC** in and for said  
**County and State**

(d) Where the lien claimant has been paid the final billing, the waiver and release must be in the following form:

**UNCONDITIONAL WAIVER AND RELEASE  
UPON FINAL PAYMENT**

Property Name: .....  
Property Location: .....



\* S B 3 5 2 R 1 \*

Undersigned's Customer: .....  
Invoice/Payment Application Number: .....  
Payment Amount: .....  
Amount of Disputed Claims: .....

The undersigned has been paid in full for all work, materials and equipment furnished to his Customer for the above-described Property and does hereby waive and release any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the undersigned has on the above-described Property, except for the payment of Disputed Claims, if any, noted above. The undersigned warrants that he either has already paid or will use the money he receives from this final payment promptly to pay in full all his laborers, subcontractors, materialmen and suppliers for all work, materials and equipment that are the subject of this waiver and release.

~~Dated:~~ .....

.....  
..... (Company Name)

By: .....

Its: ..... }

*Signature:.....*

*Printed Name:.....*

*Position/Title:.....*

*Company Name:.....*

*Company Address:.....*

*Date Signed:.....*

*STATE OF NEVADA* )  
 ) ss.  
*COUNTY OF* .....

*On the ..... (day) of ..... (month), ..... (year),  
..... (name) personally appeared and signed the  
Unconditional Waiver and Release Upon Final Payment before  
me.*

.....  
*NOTARY PUBLIC in and for said  
County and State*



(Each unconditional waiver and release must contain the following language, in type at least as large as the largest type otherwise on the document:)

Notice: This document waives 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 release form.

(e) Notwithstanding any language in any waiver and release form set forth in this section, if the payment given in exchange for any waiver and release of lien is made by check, draft or other such negotiable instrument, and the same fails to clear the bank on which it is drawn for any reason, then the waiver and release shall be deemed null, void and of no legal effect whatsoever and all liens, lien rights, bond rights, contract rights or any other right to recover payment afforded to the lien claimant in law or equity will not be affected by the lien claimant's execution of the waiver and release.

*(f) A higher-tiered contractor may require a lien claimant to provide waivers and releases as a condition precedent to paying a lien claimant only pursuant to the circumstances described in paragraphs (a) and (c).*

*(g) A lien claimant is not required to execute a waiver described in paragraph (b) or (d) until after the lien claimant receives payment of the amounts described in the waiver. Any waiver or release obtained before payment of the lien claimant shall be deemed null, void and of no legal effect whatsoever.*

