

At an Ex Parte Motion Term of the Supreme Court of the State of New York held in and for the County of \_\_\_\_\_ at the Supreme Courthouse, \_\_\_\_\_ Street, \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PRESENT:

HON. \_\_\_\_\_  
Justice.

In the Matter of the Application of  
HAPPY CONSTRUCTION, INC.,

Contractor,

Index No.

for an Order discharging a Mechanic's Lien on a public improvement pursuant to Section 21, Subdivision 6 of the Lien Law filed by SMITH INCORPORATED

ORDER DISCHARGING BY RETENTION A LIEN FOR PUBLIC IMPROVEMENT PURSUANT TO LIEN LAW § 21(6)<sup>1</sup>

Lienor,

against monies due and to become due under a contract with the New York City Department of General Services for the improvement known as

\_\_\_\_\_, \_\_\_\_\_ Street,  
\_\_\_\_\_, New York, Contract \_\_\_\_\_,  
Contract Reg. No. \_\_\_\_\_.

Upon reading and filing the notice of application dated \_\_\_\_\_, 20\_\_, the affidavit of A. Lawyer, Esq., sworn to the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ with the exhibit attached thereto, for an order, pursuant to Section 21, Subdivision 6, of the Lien Law of the State of New York discharging a certain lien against a public improvement wherein it appears that said contractor Happy Construction Inc. entered into a contract with the City of New York acting by and through the Department of General Services for the public improvement known as \_\_\_\_\_, \_\_\_\_\_ Street, \_\_\_\_\_, New York, Contract \_\_\_\_\_, Contract Reg. No. \_\_\_\_\_, and it appearing from said affidavit that a notice of lien filed by Smith Incorporated in the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) against monies due or to become due said contractor under the aforesaid contract was filed on or about \_\_\_\_\_, 20\_\_, with the Department of General Services of the City of New

<sup>1</sup> Pursuant to N.Y.C.R.R. tit. 22, § 130-1.1a an attorney signature is required. An attorney can comply by signing one of the following, as long as it accompanies the papers: a cover page, a litigation back or a separate certification.

York, the Comptroller of the City of New York and the Department of Finance of the City of New York against monies due and to become due said contractor under the aforesaid contract, and it further appearing that, at the time of the filing of said lien, there was due from the Department of General Services of the City of New York, pursuant to said contract, a sum far in excess of said amount, which said sum has been estimated and is now due and payable to said contractor, and is being withheld by reason of the filing of the aforesaid lien and no assignment having been filed and it also appearing that said lien has not been paid, cancelled or discharged of record,

NOW, THEREFORE, on motion of Lawyer & Lawyer, A. Lawyer, of counsel, attorneys for said contractor, it is

ORDERED, that the Comptroller of the City of New York and the Commissioner of the Department of Finance of the City of New York, with whom the aforesaid lien has been filed, retain from the money estimated or due and payable to Happy Construction Inc. the total sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_), which is sufficient to cover the amount of said lien with interest thereon for one year and expenses, and to pay over immediately the balance of said estimate to said contractor according to the terms of said contract, and it is further

ORDERED, that of the amount so retained, the total sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_ ) shall be held by the Comptroller of the City of New York and the Commissioner of the Department of Finance until the lien is hereafter discharged as provided by the Lien Law of the State of New York, and it is further

ORDERED, that upon the filing in the offices of the above-named Comptroller of the City of New York and the Commissioner of the Department of Finance where said lien was filed of a certified copy of this order, said offices are hereby directed to mark the said lien discharged pursuant to Lien Law § 21(6) on the docket together with a reference to this order.

ENTER

\_\_\_\_\_  
Justice of the Supreme Court