

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

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In the Matter of the Application of

\_\_\_\_\_

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

\_\_\_\_\_

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. \_\_\_\_\_.

AFFIDAVIT IN SUPPORT  
OF APPLICATION FOR  
EX PARTE ORDER  
DISCHARGING BY  
RETENTION A LIEN FOR  
PUBLIC IMPROVEMENT  
PURSUANT TO  
LIEN LAW § 21(6)

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STATE OF NEW YORK            )  
  ) ss.:  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, being duly sworn, deposes and says:

1. I am an attorney-at-law and a member of the firm of \_\_\_\_\_,  
attorneys for the above-named contractor, \_\_\_\_\_, a New York  
corporation with its offices and principal place of business at [Address].

2. This affidavit is made in support of a motion pursuant to Section 21, Subdivision 6 of the  
Lien Law for an *ex parte* order to discharge a purported mechanic's lien upon a public  
improvement dated \_\_\_\_\_, \_\_\_\_\_, in the sum of \$\_\_\_\_\_ filed by the above-  
named lienor, \_\_\_\_\_.

3. Upon information and belief, the contractor \_\_\_\_\_ entered into a  
construction contract with the City of New York acting by and through the Department of  
General Services of the City of New York on or about [date], for the improvement known as

\_\_\_\_\_, \_\_\_\_\_ Street, \_\_\_\_\_, New York,  
Contract \_\_\_\_\_, Comptroller's Contract Reg. No. \_\_\_\_\_.

4. Upon information and belief, \_\_\_\_\_ and \_\_\_\_\_ entered into a certain purchase order agreement for a certain fire alarm system in connection with \_\_\_\_\_ contract with the Department of General Services.

5. Upon information and belief, the lienor \_\_\_\_\_ has filed a purported notice of mechanic's lien with the Department of General Services of the City of New York, the Department of Finance of the City of New York and the Comptroller of the City of New York on or about [date], in the sum of \$ \_\_\_\_\_ against monies due or to become due against said contractor \_\_\_\_\_ under the contract referred to herein (lien attached as Exhibit A).

6. Upon information and belief, at the time of the filing of the aforesaid purported lien, there was due from the Department of General Services pursuant to the contract with \_\_\_\_\_, a sum of money far in excess of the amount due and to become due under the purported lien, which sum has been estimated and is now due and payable and the same is being withheld by reason of the filing of said lien and that said lien has not been otherwise cancelled nor discharged of record, nor has any action been commenced to foreclose the same.

7. Upon information and belief, no assignment has been filed against the aforesaid contract.

8. Deponent, as attorney for said contractor, desires pursuant to statute (Lien Law § 21(6)) to discharge said lien and release the money applicable to said contract by an order of this Court directed to the Comptroller of the City of New York and the Commissioner of Finance of the City of New York with whom the lien has been filed, to retain from such estimate a sum of money which shall not be less than the amount claimed by the lienor, with interest thereon for one year, and such additional amount as this Court may deem sufficient to cover the costs and expenses; and to pay over immediately the balance of such estimate to the contractor \_\_\_\_\_ and deponent further prays this Court for an order fixing the amount to be retained by said Comptroller or the Commissioner, with whom the lien has been filed, and for payment of the balance of said estimate to \_\_\_\_\_ in accordance with the terms of said contract.

9. No previous application has been made for the relief herein sought.

s/ \_\_\_\_\_  
[Signing Attorney's Name]

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public