

**ESCROW AGREEMENT FOR SECURITY DISPOSITION IN LIEU OF RETENTION (Option A)**

This Escrow Agreement is made and entered into by and between the Department of Water Resources of the State of California ("DEPARTMENT" herein), \_\_\_\_\_ ("CONTRACTOR" herein), and \_\_\_\_\_ ("ESCROW AGENT" herein).

For the consideration hereinafter set forth, DEPARTMENT, CONTRACTOR, and ESCROW AGENT agree as follows:

- (1) Pursuant to Section 10263 of the Public Contract Code of the State of California, CONTRACTOR has the option to deposit securities\* with ESCROW AGENT as a substitute for retention earnings required to be withheld by DEPARTMENT pursuant to Contract No. \_\_\_\_\_ between DEPARTMENT and CONTRACTOR dated \_\_\_\_\_ (hereinafter referred to as the "Contract").
- (2) When CONTRACTOR deposits the securities as a substitute for the contract earnings, ESCROW AGENT shall notify DEPARTMENT within ten days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the contract between the DEPARTMENT and CONTRACTOR. Securities shall be held in the name of the DEPARTMENT and shall designate CONTRACTOR as the beneficial owner.
- (3) DEPARTMENT shall make progress payments to CONTRACTOR for those funds which otherwise would be withheld from progress payments pursuant to the contract provision, provided that ESCROW AGENT holds securities in the form and amount specified above.
- (4) CONTRACTOR shall be responsible for paying all fees for the expenses incurred by ESCROW AGENT in administering the escrow account. These expenses and payment terms shall be determined by CONTRACTOR and ESCROW AGENT.
- (5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on the interest shall be for the sole account of CONTRACTOR and shall be subject to withdrawal by CONTRACTOR at any time and from time to time without notice to DEPARTMENT.
- (6) CONTRACTOR shall have the right to withdraw all or any part of the principal in the escrow account only by written notice to ESCROW AGENT accompanied by written authorization from DEPARTMENT to ESCROW AGENT that DEPARTMENT consents to the withdrawal of the amount sought to be withdrawn by CONTRACTOR.
- (7) DEPARTMENT shall have a right to draw upon the securities in the event of default by CONTRACTOR. Upon seven days' written notice to ESCROW AGENT from DEPARTMENT of the default, ESCROW AGENT shall distribute the cash as instructed by DEPARTMENT.
- (8) Upon receipt of written notification from DEPARTMENT certifying that the contract is final and complete, and that CONTRACTOR has complied with all requirements and procedures applicable to the contract, ESCROW AGENT shall release to the CONTRACTOR all securities and interest on deposit less escrow fees and charges of the escrow account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.
- (9) ESCROW AGENT shall rely on the written notifications from DEPARTMENT and CONTRACTOR pursuant to Sections (1) to (8), inclusive, of this agreement, and DEPARTMENT and CONTRACTOR shall hold ESCROW AGENT harmless from ESCROW AGENT'S release, conversion and disbursement of the securities and interest as set forth above.

\_\_\_\_\_  
\* Eligible securities are limited to those as set forth in Section 10263 of the Public Contract Code and Section 16430 of Government Code.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of DEPARTMENT, on behalf of CONTRACTOR, and on behalf of ESCROW AGENT in connection with the foregoing, and exemplars of their respective signatures are as follows:

**On behalf of DEPARTMENT:**

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
ADDRESS

**On behalf of CONTRACTOR:**

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
ADDRESS

**On behalf of ESCROW AGENT:**

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
ADDRESS

At the time the escrow account is opened, DEPARTMENT and CONTRACTOR shall deliver to ESCROW AGENT a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers.

DATED \_\_\_\_\_

**DEPARTMENT**

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

**CONTRACTOR**

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

**ESCROW AGENT**

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE