

## **SECTION 01 29 54 RETAINAGE ESCROW INITIATION**

### **PART 1 - GENERAL**

#### **1.01 Basic Requirements**

- A.** Retainage escrow requirements are mandated by Chapter No. 340 House Bill No. 966 Public Acts of 1985 which was passed by the Tennessee General Assembly.
- B.** Conditions of Contract, in accordance with State law, require retainage to be deposited into an interest-bearing escrow account if the Contract Sum \$500,000 or greater. Compliance is mandatory and cannot be waived.
- C.** Failure to have the escrow account operational by the time of the contractor's second application for payment can result in delay of payment or inability of the Owner to make payment. Any such delay or inability to pay will not be grounds for relief under the prompt payment statutes.

**1.02** The banking institution handling the retainage escrow account must be in an appropriate custodial care agreement with the State Treasurer. If not already in such an agreement, a banking institution can request such an agreement from the State Treasurer, subject to meeting eligibility requirements of TCA section 12-4-108(c).

#### **1.03 Getting Started**

- A.** Shortly after award of Contract, the Tennessee Department of Finance and Administration (F&A) will send the Contractor its latest information for starting the account. This information typically includes:
  - 1.** procedural guide
  - 2.** forms, including the basic application, colloquially referred to as "Form A".
  - 3.** list of banks that currently have agreements with the State to host retainage escrow accounts
- B.** Getting help
  - 1.** The instructions from F&A will include a name and phone number to call for help:
    - a.** If the Contractor needs help completing Form A.
    - b.** If the Contractor plans to use a lending institution that does not have a current agreement with the State for hosting retainage escrow.
  - 2.** At the time this standard specification is written (see bottom left of page) the contact person for help in setting up new escrow accounts and completing Form A is Mary Mansour at (615)741-1317.
- C.** To avoid delays in setting up the escrow, and possible delays in payment, do not wait to be contacted by F&A as described above. Instead, if the Contract Sum is \$500,000 or greater, as soon as the Contract is awarded, take the Form A that is page 2 of this Section, get it filled out and executed with the escrow bank, and have the bank send the original wet-signature Form to

ATTN: Mary Mansour  
Tennessee Department of Finance and Administration  
Office of Business and Finance  
Suite 2000 William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue  
Nashville TN 37243-0294

**1.04** A sample of Form A is provided on page 2 of this Section. Otherwise, this is the ...

### **END OF SECTION**

**FORM A**

**APPLICATION FOR THE SUBSTITUTION OF SECURITIES FOR ALL AMOUNTS  
RETAINED ON STATE BUILDING COMMISSION CONSTRUCTION CONTRACTS**

Date: \_\_\_\_\_

RE: Contract Number: \_\_\_\_\_

Project No.: \_\_\_\_\_

Location: \_\_\_\_\_

Dear State Building Commission:

Pursuant to the provisions of Tennessee Code Annotated, Sections 12-4-108,

*Contractor's name and  
address as appearing  
on construction  
Contract:*

hereby requests that whenever payment for which certain amounts are retained by the State Building Commission as determined by the subject construction contract, the amount so retained be substituted for approved securities, as designated by the Tennessee State Treasurer.

The undersigned Contractor hereby appoints \_\_\_\_\_  
*(Name of Banking Institution)*

located at \_\_\_\_\_ to be its  
*(Complete Address of Banking Institution)*

agent and attorney-in-fact to receive all amounts retained by the State Building Commission under the provisions of the subject construction Contract and to purchase Retainage Securities of the following type: \_\_\_\_\_  
*(Description & Account Number)*

The appointed Banking Institution, as indicated by the acceptance signature shown below, agrees to enter or has already entered into a Trust Agreement with the Tennessee State Treasurer to act as custodian and servicing agent of Retainage Securities and to perform all assigned duties and responsibilities with respect thereto as set forth in the Trust Agreement, which is herein incorporated by reference.

Very truly yours,

\_\_\_\_\_  
*(Signature of Authorized Representative of Contractor)*

\_\_\_\_\_  
*(Title)*

ACCEPTED:

\_\_\_\_\_  
*(Signature of Authorized Officer of Banking Institution)*

\_\_\_\_\_  
*(Title)*

CONTACT PERSON (BANK) \_\_\_\_\_  
*PLEASE PRINT*

PHONE NUMBER \_\_\_\_\_