

SETTLEMENT AND RELEASE AGREEMENT

32388

THIS SETTLEMENT AND RELEASE AGREEMENT ("Agreement") is made and entered into between the CITY OF LONG BEACH, a municipal corporation, ("City") pursuant to a minute order adopted by the City Council at its meeting of October 18, 2011, and INDEL ENGINEERING, INC., a California corporation, dba Marina Shipyard ("Indel").

1. RECITALS. This Agreement is made with reference to the following facts and objectives:

1.1 Indel validly filed Claim No. C10-0623 against City (the "Claim"), seeking payment of \$96,767.45 for services provided in connection with repair work completed on a City-owned and operated trash barge.

1.2 City denied the Claim, and a dispute arose over whether such denial of the Claim was valid.

2. SETTLEMENT. In an effort to settle and resolve the above dispute the parties have reached the following agreements:

2.1 Payment. In full discharge of City's obligations to Indel in connection with the work evidenced by Invoice No. 34097, City shall promptly pay to Indel Sixty-One Thousand and No/Dollars (\$61,000).

2.2 Releases.

2.2.1 Release of Indel. City, on behalf of itself, its agents, boards, employees and officers, hereby releases and forever discharges Indel, its respective agents, boards, employees and officers from any and all claims, demands, damages, costs and expenses, and causes of action arising from or related to the Claim, whether or not now known to City.

2.2.2 Release of City. Indel, on behalf of itself, its agents, boards, employees and officers, hereby releases and forever discharges City and its agents, boards, employees and officers from any and all claims, demands, damages, costs and expenses, and causes of action arising from or related to the Claim, whether or not now known to Indel.

2.2.3 Unknown Claims. City and the BLD Entities each certify that they are familiar with the provisions of Section 1542 of the California Civil Code which reads:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release,

which if known by him must have materially affected his settlement with the debtor.”

City and the BLD Entities each waive their respective rights under said Civil Code Section 1542.

2.3 Disclaimer of Liability. This Agreement constitutes a compromise of disputed claims, and nothing contained herein shall be construed or interpreted as an admission of liability on the part of City or Indel.

2.4 Prior Actions. Each of the parties hereby warrants and represents that it is the lawful owner of the claims released hereunder, and that as of the date of this Agreement, the parties have not assigned, transferred or otherwise conveyed or otherwise.

2.5 Authority. Each party represents that it has the requisite authority to enter into this Agreement and that the persons whose signatures appear below for such party has the authority to execute this Agreement on behalf of said party and that such signature is given for the purpose of binding such party to the terms of this Agreement.

2.6 Legal Counsel. In entering into this Agreement, City and Indel acknowledge that they have been represented by legal counsel and that their respective boards and officials have been given adequate legal advice regarding the claims set forth in this Agreement.

2.7 Effective Date. This Agreement shall be effective upon execution by the City Manager of City.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

Nov 15, 2011

CITY OF LONG BEACH, a municipal corporation

By [Signature] **Assistant City Manager**
City Manager **EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.**

INDEL ENGINEERING, INC., a California corporation, dba Marina Shipyard

By [Signature]
Its: CEO PRESIDENT

October 26, 2011

APPROVED AS TO FORM

11-2-20-11
ROBERT E. SHANNON, City Attorney

By [Signature]
RICHARD ANTHONY
CITY ATTORNEY