

34297



**ESCROW AGREEMENT FOR
SECURITY DEPOSITS IN LIEU OF RETENTION**

ESCROW # 1251

To: Banner Bank
Corporate Escrow Dept
1750 Howe Avenue, Suite 100
Sacramento, CA 95825

The undersigned delivers herewith, or will cause to be delivered to Banner Bank, a State chartered bank, Corporate Escrow Services, hereinafter called Escrow Agent, the papers, money or property hereinafter described to be held and disposed of by Escrow Agent in accordance with the following instructions and upon the terms and conditions herein set forth, to which the undersigned hereby agree.

This Escrow Agreement is made the **17th of October, 2016**, is entered into by and between

City of Long Beach, whose address is **333 W. Ocean Blvd., Long Beach, CA 95802**,

hereinafter called "Owner";

Los Angeles Engineering, Inc., whose address is **633 N. Barranca Avenue, Covina, CA 91723**

hereinafter called "Contractor", and **Banner Bank, a State chartered bank**, whose address is 1750 Howe Avenue, Suite 100, Sacramento, California 95825, hereinafter called "Escrow Agent".

For the consideration hereinafter set forth, the Owner, Contractor, and Escrow Agent agree as follows:

- (1) Pursuant to Section 22300 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 Owner pursuant to the Construction Contract entered into between the Owner and Contractor for the **Colorado Lagoon Restoration - Phase 2B Project No.: R-7054**

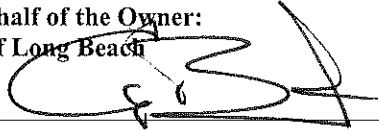
in the amount of *****Two Million Seven Hundred Seventy-One Thousand Six Hundred Twenty-Five Dollars and No Cents*** (\$2,771,625.00)** dated 10/3/16
(hereinafter referred to as "Contract"). Alternatively, on written request of the Contractor, the Owner shall make payments of the retention earnings directly to the Escrow Agent.

When the Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Owner within 10 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 Owner and Contractor. Securities shall be held in the name of **City of Long Beach**, and shall designate the Contractor as the beneficial owner.



- (2) The Owner shall make progress payments to the Contractor for those funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.
- (3) When the Owner makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until the time that the escrow created under this Contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the Owner pays the Escrow Agent directly.
- (4) Contractor shall be responsible for paying all fees for the expenses incurred by the Escrow Agent in administering the Escrow Account and all expenses of the Owner. These expenses and payment terms shall be determined by the Owner, Contractor and Escrow Agent.
- (5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that 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 the Owner.
- (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 the Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.
- (7) The Owner shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven days' written notice to the Escrow Agent from the Owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by Owner.
- (8) Upon receipt of written notification from the Owner certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to 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 upon the written notification from the Owner and the Contractor pursuant to Sections (5) to (8), inclusive, of this Agreement and the Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.
- (10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Owner and on behalf of the Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of the Owner:
City of Long Beach



Authorized Signer Name Craig Beck

Authorized Signer Title Director of Public Works
333 W. Ocean Blvd.
Long Beach, CA 95802

On behalf of the Contractor:
Los Angeles Engineering, Inc.



Angus O'Brien, President
633 N. Barranca Avenue
Covina, CA 91723

On behalf of the Escrow Agent:
Banner Bank

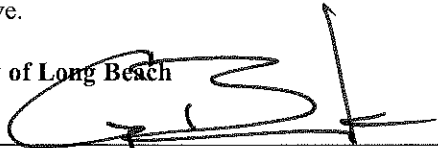


Michael Fanous, Vice President/Branch Manager
Corporate Escrow Dept
1750 Howe Avenue, Suite 100
Sacramento, CA 95825

At the time the escrow account is opened, the Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officer on the date first set forth above.

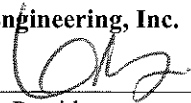
City of Long Beach



Authorized Signer Name Craig Beck

Authorized Signer Title Director of Public Works

Los Angeles Engineering, Inc.



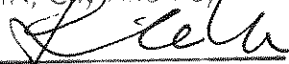
Angus O'Brien, President

APPROVED AS TO FORM

11/15 2006

CHARLES PARKIN, City Attorney

By



LINDA T. VU
DEPUTY CITY ATTORNEY