



# Administrative Report

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H.12., File # 21-3080

Meeting Date: 10/5/2021

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**To:** MAYOR AND CITY COUNCIL  
**From:** TED SEMAAN, PUBLIC WORKS DIRECTOR

## **TITLE**

APPROVE ESCROW AGREEMENT NO. 2719 FOR SECURITY DEPOSITS IN LIEU OF RETENTION FOR THE INGLEWOOD AVENUE AT MANHATTAN BEACH BOULEVARD INTERSECTION IMPROVEMENTS (SOUTHBOUND RIGHT TURN LANE) PROJECT, JOB NO. 40960

## **EXECUTIVE SUMMARY**

All American Asphalt (AAA) was awarded a public works contract to complete the Inglewood Avenue at Manhattan Beach Boulevard Intersection Improvements (Southbound Right Turn Lane) Project and is preparing to begin their work. As part of the project administration and under provisions of the Public Contract Code, AAA has opted to open an escrow account into which the City will make retention deposits, in lieu of the City retaining 5% of the monthly progress payments. The attached escrow agreement between AAA, the City and the escrow agent, Citizens Business Bank, is necessary for the administration of that account. Establishment of the account does not increase costs to the City and the account governed by this agreement will be closed immediately upon disbursement of all funds after the project is accepted as complete by the City and the 35-day notice for potential claims has passed, and assuming no claims.

## **BACKGROUND**

As required by Public Contract Code Section 9203, the City withholds 5% retention of each progress payment to the contractor to ensure that the contractor completes the project per the Agreement. Section 22300 of the Public Contract Code provides contractors the option of having retention funds deposited into a joint escrow account rather than being retained by the administering public agency. All American Asphalt has requested that contract retention payments be placed in escrow pursuant to Escrow Agreement No. 2719, with Citizens Business Bank, named as the Escrow Agent. The Escrow Agreement gives the City the right to draw upon the funds in escrow in the event of default by the Contractor. Upon the City's written notice that the Contract is final and complete, the escrow will be closed and all funds held therein, less the escrow fees and charges, will be returned to the Contractor. The Escrow Agreement requires the Contractor to pay all costs incurred by the escrow agent.

On June 15, 2021, the City Council awarded All American Asphalt, a public works contract in the amount of \$934,948 to complete the Inglewood Avenue at Manhattan Beach Boulevard Intersection

Improvements (Southbound Right Turn Lane) Project, Job No. 40960. The City has issued a limited notice to proceed, pending closure of escrow on right of way acquisition needed for the work, which was previously approved by the City Council. The limited notice to proceed allows the contractor to begin submittal preparation and ordering of materials, especially on long lead time items. Once an escrow closing date is determined and material delivery schedules are known, City staff and the contractor will meet to determine a construction schedule. Once mobilized, the contractor will have 90 working days (about four months) to complete the project.

**COORDINATION**

The City Attorney's Office approved the Escrow Agreement as to form.

**FISCAL IMPACT**

As referenced earlier, all costs associated with opening escrow will be paid for by the contractor.

**APPROVED BY:**

*Joe Hoefgen, City Manager*

**ATTACHMENTS**

1. Escrow Agreement No. 2719