

ORDINANCE NUMBER O- 19315 (NEW SERIES)

ADOPTED ON SEP 07 2004

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN
DIEGO APPROVING THE FIFTH AMENDMENT
TO THE CONSULTANT AGREEMENT BETWEEN THE CITY
OF SAN DIEGO AND PROJECT DESIGN CONSULTANTS

WHEREAS, on February 8, 1993, the Council of the City of San Diego approved a consultant agreement between the City of San Diego and Lettieri-Mcintyre & Associates (now Project Design Consultants), on file in the office of the City Clerk as Document No. RR-281449, for the preparation of the environmental document for the Replacement of the North Torrey Pines Road Bridge over Los Penasquitos Creek (Southern Bridge), CIP 53-050.0; and,

WHEREAS, due to its close proximity, the Federal Highway Administration (FHWA) recommended that the City of San Diego include the North Torrey Pines Bridge over the San Diego Northern Railway (Northern Bridge) in the same environmental document. On July 25, 1994, the Council of the City of San Diego approved the First Amendment between the City of San Diego and Lettieri-Mcintyre & Associates (now Project Design Consultants), on file in the office of the City Clerk as Document No. RR-284327; and

WHEREAS, the City of Del Mar, which shared jurisdictional responsibility for the Northern Bridge, did not approve the conceptual plan and their concurrence was necessary to finalize the environmental document. Therefore the FHWA reversed their recommendation for and allowed the City of San Diego to move forward with completion of the environmental document for the Southern Bridge only. This resulted in the Second Amendment to the Agreement with Lettieri-Mcintyre & Associates, on May 15, 2000, on file in the office of the City Clerk as Document No. C-08456; and,

Negative Declaration for the Project, on file in the office of the City Clerk as Document C-10041; and,

WHEREAS, on September 1, 2000, LMA merged with Project Design Consultants [PDC], assigning all of its rights and responsibilities under the Agreement to PDC; and

WHEREAS, the Fourth Amendment between the City of San Diego and PDC was filed on December 20, 2002, as Document No. C-11845, to address the Coastal Commission permit requirements for the Project; and

WHEREAS, the City of San Diego now desires a Fifth Amendment to the Agreement to assist the City in implementing biological mitigation and monitoring measures required as part of the Mitigation Monitoring & Reporting Program [MMRP] for the Project; and

WHEREAS, under San Diego Charter section 99 no contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance adopted by a two-thirds' majority vote of the City Council; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the City Manager be and is hereby authorized and empowered to execute, for and on behalf of said City, the Fifth Amendment to the Agreement with PDC Consultants in an amount not to exceed \$148,380 for Professional Services related to biological mitigation and mitigation monitoring for the Project, CIP No. 53-0500, under the terms and conditions set forth in the Agreement on file in the office of the City Clerk as Document No.

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Section 2. That the expenditure of an amount not to exceed \$148,380 is authorized from TransNet, Fund No. 30300, for the purpose of executing the Fifth Amendment to the Agreement for the North Torrey Pines Road Bridge over

Los Penasquitos Creek, provided that the City Auditor and Comptroller first furnishes a certificate certifying that funds are available; and contingent upon the approval of the Fiscal Year 2005 Budget.

Section 3. That the City Auditor and Comptroller is authorized, upon advice from the Administering Department, to return excess funds, if any, to the appropriate reserves.

Section 4. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By



Susan Y. Cola
Deputy City Attorney

SYC:sc
7/27/04
Aud.Cert.:2500091
Or.Dept: E&CP
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