ORDINANCE NUMBER O- 19315 (NEW SERIES)

ADOPTED ON SEP 0 7 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 (FHWAP) 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.

<u>00 - 19315</u>

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

O-2005-25

The City of San Diego CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC 2500091

FUND OVERRIDE

I HEREBY CERTIFY that the money required for the allotment of funds	s for the purpose set forth in the foregoing resolution is
ailable in the Treasury, or is anticipated to come into the Treasury, and is other	erwise unallotted.
mount:	Fund:

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Date:				-		By:	AUDITOR AND COMPTROLLER'S DEPARTMENT				
					AC	COUNTING DATA					
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
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			<u> </u>	L	<u> </u>		<u> </u>	<u> </u>	TOTAL	AMOUNT	

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

\$148,380.00

r:	Project Design Consultants		
se:	To authorize the expenditure of funds for to design of the North Torrey Pines Road Bridge		ne 5th amendment to the consulting agreement for the act amount is now. 396 801.00
	July 27, 2004	By:	Carly MeGriff Auditor and Courte Holler's DEPARTMENT

		·	:		AC	COUNTING DATA				
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
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						•		TOTAL	AMOUNT	\$148,380.00

AC-361 (REV 2-92)

Not to Exceed:

Purpose:

SEP 0 7 2004