

RESOLUTION NUMBER R- 300267

ADOPTED ON APR 04 2005

A RESOLUTION OF COUNCIL OF THE CITY OF SAN
DIEGO APPROVING THE SETTLEMENT AGREEMENT
BETWEEN THE CITY OF SAN DIEGO AND
CONSULTANT BERRYMAN & HENIGAR AND
AUTHORIZING FINAL PAYMENT TO BERRYMAN
& HENIGAR FOR DESIGN SERVICES

WHEREAS, on September 29, 1999, the City and Berryman & Henigar (Consultant) entered into an Agreement for Engineering Services, which is on file in the office of the City Clerk as Document No. RR-292209, to provide engineering design services for the La Jolla/Pacific Beach Trunk Sewer – Chelsea Street Relocation project (the Project). The Contract called for design services related to the construction of 3850 linear feet of a new 21” diameter replacement trunk sewer, construction of 4700 linear feet of new 8” sewer mains, and the reconnection and replumb of 65 laterals to the new sewer mains.

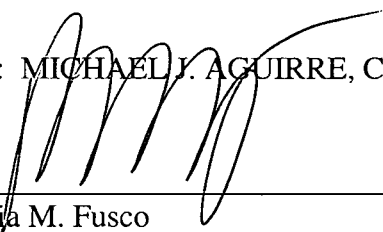
WHEREAS, during construction, the City’s contractor encountered a conflict between the new trunk sewer, designed by the Consultant, and an existing 72” storm drain structure underneath La Jolla Boulevard. As a result of the conflict, the City incurred additional Project costs associated with change orders from the Contractor. Each party alleges the other is responsible for the additional Project costs; however, the Consultant has agreed to pay the City \$307,000 for additional construction costs associated with the encountered conflict. The Consultant also agreed to reduce its final invoice by \$66,887.91, leaving a remaining balance of \$30,000.

WHEREAS, under the terms of the proposed Settlement Agreement, the City will pay to the Consultant (simultaneously with the \$307,000 payment made by the Consultant to the City) \$30,000 for design services provided by Consultant to date, and up to an additional \$10,000 for preparation of as-built drawings for the Project.

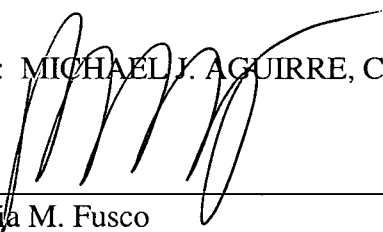
WHEREAS, Council action is required to approve the Settlement Agreement between the City and Consultant and to authorize payment to the Consultant for completion of the Consultant's scope of services related to the Project.

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

1. That the terms and conditions of the proposed Settlement Agreement with Consultant Berryman & Henigar are approved.
2. That the expenditure of up to \$40,000, of which up to \$10,000 will be paid to Berryman & Henigar for preparation of as-builts for the subject project, and \$30,000 for payment of Berryman & Henigar's final invoice, is hereby authorized.
3. That the City Manager, or his designee, is authorized on behalf of the City to sign all documents necessary and appropriate to carry out and implement the terms of the Settlement Agreement.

APPROVED:  MICHAEL J. AGUIRRE, City Attorney

By


Patricia M. Fusco
Deputy City Attorney

PMF:jls
2/15/05
Or.Dept:ECP
R-2005-863

Agreement with Berryman & Henigar on file in the
Office of the City Clerk as Document No. RR-300267.

**The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC 2500819
DEPT. _____
NO.: 773

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE

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.

Not to Exceed: \$40,000.00

Vendor: Berryman & Henigar

Purpose: Authorizing the expenditure of funds for settlement agreement for the La Jolla/Pacific Beach TS - Chelsea Street relocation design consultant project.

Date: March 11, 2005

By: *Victoria Loza*
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1	0	41506	773	960	4278	174302				\$40,000.00
TOTAL AMOUNT										\$40,000.00

FUND OVERRIDE

AC-361 (REV 2-92)

AC 2500819

R- 300267

APR 04 2005