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## CITY OF SANTA BARBARA

### COUNCIL AGENDA REPORT

**AGENDA DATE:** August 1, 2017

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Increase In Construction Change Order Authority Related To Winter Storm Damage For The Charles E. Meyer Desalination Plant

**RECOMMENDATION:** That Council:

- A. Authorize an increase in the Public Works Director's Change Order Authority to approve expenditures for extra work for the Charles E. Meyer Desalination Plant, with IDE Americas, Inc., Contract No. 25,277, in the amount of \$1,500,000, for a total Contract expenditure authority of \$62,426,654;
- B. Authorize an increase in the Public Works Director's Change Order Authority to approve expenditures for extra work for the Charles E. Meyer Desalination Plant, with Carollo Engineers, Contract No. 25,222, in the amount of \$150,000, for a total Contract expenditure authority of \$2,773,782
- C. Authorize the City Attorney to execute a Fifth Amendment to Legal Services Agreement No. 24,835 with Hanson Bridgett, LLP to increase the "Do No Exceed Limit" from \$200,000 to \$300,000 related to legal services for ongoing Desal DBO contractual issues.;
- D. Approve an increase in appropriations in the Water Fund in the amount of \$1,800,000 funded from Water Fund reserves, and authorize the transfer of such funds from the Water Fund to the Water State Revolving Fund (SRF) Loan to cover the costs of work;
- E. Approve an increase in appropriations and estimated revenues in the Water SRF Loan Fund in the amount of \$1,800,000, funded from a transfer from the Water Fund for the Charles E. Meyer Desalination Plant Project; and
- F. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara to authorize the City Administrator to execute Amendment No. 1 and Amendment No. 2 to the Installment Sale Agreement for the Desalination Plant Reactivation Project Drinking Water State Revolving Fund Project No. 4210010-005C, Agreement No. D15-02006.

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## **DISCUSSION:**

### Background

Onsite construction for the Desalination Facility Reactivation Project began in September 2015. On August 2, 2016, October 1, 2016, and again on January 10, 2017, Council received reports and requests to increase the Change Order Authorization for the IDE Americas, Inc. (IDE) and Carollo Engineers (Carollo) contracts. The project experienced several unanticipated issues including contaminated soils, direct bury electrical, and brine box and intake line modifications, which increased costs and extended the time to complete the project. To date, Council has authorized change order amounts of \$17,489,420 and \$591,160 for the IDE and Carollo contracts respectively.

### Current Status

At the January 10, 2017 Council update, it was assumed that marine work, which was currently in progress, would be completed in January. Unfortunately, on January 18 the barge had to demobilize, moved to Channel Islands Harbor, to avoid being damaged by a storm which caused hazardous ocean conditions. The barge was unable to return until January 27. When the barge returned there was storm damage that required additional repairs to stabilize the soil under one of the intake structure. Then again on February 1, the barge had to demobilize again due to hazardous ocean conditions due to weather and the barge was unable to return until February 7. All marine work was finally completed on February 15, 2017. Staff is recommending an increase in change order authority of \$1,500,000 to cover the extra and unanticipated marine expenditures.

The additional marine time was not anticipated and the January storm has become a FEMA recognized event. The City has been working with FEMA on reimbursement for the damage to the intake structure. FEMA, however, does not reimburse for delay time, which is the majority of the costs related to this change order.

Currently, the plant is operating and completing its testing. Desalinated water has been delivered to the distribution system on an intermittent basis. There have been very few customer complaints related to the change in water quality.

In addition to the IDE contract increase, staff is recommending a \$150,000 increase in the contract with Carollo, who is providing owner-support services for the City on the project. Carollo's extra services include technical advice and their subcontractor work for inspections, schedule analysis, and administrative duties. Staff also recommends increasing the legal services contract with Hanson Bridgett LLP, by \$100,000 for a not to exceed amount of \$300,000. Hanson Bridgett, LLP provided legal assistance with negotiating and drafting the Desal DBO contract and has extensive experience in public entity contracting and complex public infrastructure projects. The law firm is providing assistance with complex contractual issues including conversion of the project from the

construction phase to operations. Additional funds of \$50,000 are also recommended for Public Works Engineering staff time for administrative duties.

**BUDGET/FINANCIAL INFORMATION:**

The following summarizes the additional expenditures recommended in this report:

**CONSTRUCTION CONTRACT FUNDING SUMMARY**

	<b>Base Contract</b>	<b>Previous Change Orders</b>	<b>Proposed Change Order</b>	<b>Total</b>
IDE	\$43,437,234	\$17,489,420	\$1,500,000	<b>\$62,426,654</b>
Carollo	\$2,032,622	\$591,160	\$150,000	<b>\$2,773,782</b>
Hanson Bridgett	\$25,000	\$200,000	\$100,000	<b>\$325,000</b>
Staff	\$255,739	\$225,000	\$50,000	<b>\$530,739</b>

There are currently enough funds in the Water Fund Reserves to fund this increase, while an increase in the SRF loan is being processed.

On February 14, 2017, Council authorized staff to apply to the State Water Board to increase the SRF loan up to a maximum of \$106 million to cover additional costs from the project including potential expansion up to 7,500 AFY. At this time, that authorization is sufficient to cover the increased cost of this change order without additional action. The State has provided Amendment No. 1 to the Installment Sale Agreement for the Project, extending the construction completion date to November 1, 2018 and the Loan end date to July 1, 2038. Amendment No. 2 to the Installment Sale Agreement which will increase the loan amount to an anticipated amount of \$72.5 million, will be provided by the State once water rates for fiscal years 2018-2020 are approved in August, 2017. Staff recommends that Council introduction and subsequently approve an Ordinance that will authorize the City Administrator to execute both amendments as required under the City Charter. .

Staff has reviewed the impacts this change order will have on the final loan amount and believes the proposed water rates presented to Council on June 27, 2017, will be sufficient to cover the \$90,000 annual increase in debt service.

**PREPARED BY:** Brian D'Amour, P.E., City Engineer/LS/cmw

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office

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ORDINANCE NO.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AUTHORIZING THE APPROVAL AND EXECUTION BY THE CITY ADMINISTRATOR OF AMENDMENT NO. 1 TO THE INSTALLMENT SALE AGREEMENT FOR THE DESALINATION PLANT REACTIVATION PROJECT DRINKING WATER STATE REVOLVING FUND PROJECT NO. 4210010-005C, AGREEMENT NO. D15-02006

WHEREAS, in order to finance the Desalination Plant Reactivation Project, the City and State Water Board entered into an Installment Sale Agreement for a maximum principal amount of \$55 million, dated as of July 14, 2015;

WHEREAS, through the Installment Sale Agreement, the State Water Board will provide the funds necessary to construct the Desalination Plant Reactivation Project which funds will be repaid by the City in equal annual installments together with 1.66 percent interest accruing thereon, from the Water Fund Revenues for twenty (20) years, and will begin no later than one year after completion of construction;

WHEREAS, the City wishes to increase the maximum principal amount of the Installment Sale Agreement to \$80 million; and

WHEREAS, the City Council of the City of Santa Barbara (the City Council) has been presented with the form of Amendment No. 1 to the Installment Sale Agreement dated as of July 21, 2015, and the City Council has examined and approved such document and desires to authorize and direct the execution of such document.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. ALL of the recitals herein contained are true and correct, and the City Council so finds.

SECTION 2. The form of Amendment No. 1 to the Installment Sale Agreement, on file with the City Clerk, is hereby approved, and the Public Works Director of the City and any such other officer of the City as the City Administrator may designate (the "Authorized Officers"), are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver Amendment No. 1 to the Installment Sale Agreement dated as of July 21, 2015, in substantially said form with such changes therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the principal amount of the Installment Payments shall not exceed \$80 million and the final Installment Payment shall be payable no later than twenty years following the notice of completion of construction of the Project, and the true interest cost of the interest on the Installment Payments shall not exceed 1.66 percent per annum.

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SECTION 3. The Authorized Officers are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable in order to consummate the transactions herein authorized and otherwise to carry out, give effect to, and comply with the terms and intent of this Ordinance. All actions heretofore taken by the officers, employees, and agents of the City with respect to the transactions set forth above are hereby approved, confirmed, and ratified.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Council hereby orders that, in lieu of the publication of this Ordinance once in the official newspaper of the City within 15 days after its adoption, this Ordinance shall be published by title only once in the official newspaper of the City within 15 days after its adoption, provided that the full text shall be available to the public at the City Clerk's Office, and such publication by title only shall so state. This Ordinance shall become effective 30 days from and after the date of its adoption.