

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AUTHORIZING THE APPROVAL, SUBJECT TO RECEIPT OF SRF LOAN FOR PROJECT NO. 4210010-005C, AND EXECUTION BY THE PUBLIC WORKS DIRECTOR OF A CONTRACT TO DESIGN, BUILD, AND OPERATE THE CHARLES E. MEYER DESALINATION FACILITY WITH IDE AMERICAS, INC., IN THE AMOUNT OF \$43,437,234 AND APPROVE EXPENDITURES UP TO \$1,864,420 TO COVER ANY COST INCREASES THAT MAY RESULT FROM CONTRACT CHANGE ORDERS FOR EXTRA WORK AND DIFFERENCES BETWEEN ESTIMATED BID QUANTITIES AND ACTUAL QUANTITIES MEASURED FOR PAYMENT

WHEREAS, Santa Barbara Ordinance No. 5676 authorizes procurement through a design, build, operate method in appropriate circumstances; and

WHEREAS, on September 23, 2014, the City Council of the City of Santa Barbara adopted Resolution No. 14-067 finding that the design, build, operate procurement method should be utilized to reactivate and operate the Charles Meyer Desalination Facility (“Desalination Facility”);

WHEREAS, in September 2014, the City entered into a pre-qualification process for selection of potential contractors to prepare proposals for a design, build, operate contract for the reactivation of the Desalination Facility;

WHEREAS, in November 2014, the City issued an RFP to all pre-qualified proposers for the Desalination Facility and two proposals were submitted;

WHEREAS, on April 3, 2015, after evaluation of both proposals, the City determined that the proposal submitted by IDE Americas, Inc. a Delaware corporation (“IDE”), was the highest ranked proposal, and entered into contract negotiations with IDE;

WHEREAS, in order to initiate design phase work during contract negotiations for a design, build, operate contract, the City and IDE entered into Agreement No. 25, 221 on June 16, 2015, which agreement will terminate on the effective date of the Design, Build, Operate Contract (“DBO Contract”) and this Ordinance; and

WHEREAS, Section 521 of the Charter of the City of Santa Barbara requires that all contracts that bind the City for a term longer than five (5) years must be approved by ordinance adopted by the City Council of the City of Santa Barbara.

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. In accordance with the provisions of Section 521 of the Charter of the City of Santa Barbara, that certain DBO Contract by and between IDE Americas, Inc. and the City of Santa Barbara, is hereby approved.

Section 3. The form of the DBO Contract, on file with the City Clerk, is hereby approved, and the Public Works Director of the City is hereby authorized and directed, for and in the name and on behalf of the City, to execute the DBO Contract with IDE Americas, Inc. in substantially said form with such changes therein as the Public Works Director may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the amount of the DBO Contract shall not exceed \$44,757,234, with a total extra services amount of \$1,864,420.

Section 4. On the effective date hereof, Agreement No. 25,221 shall terminate and be of no further force or effect.