

Date:	June 1, 2022		
To:	Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners	Agenda Item No. 8(O)(3)	
From:	Daniella Levine Cava Daniella Levine Cava Mayor		
Subject:	Recommendation Authorizing a Bid Waiver for Youngquist Brothers LLC to Construct Municipal Injection Wells 10 and 11 for the Central District Wastewater Treatment Plant, Approving Contract S-970 and Authorizing the Use of Section 2-8.2.12 of the Code of Miami-Dade County (WASD Acceleration Ordinance)		
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#### **Executive Summary**

The attached resolution seeks the approval of the Board of County Commissioners (Board) to waive the competitive bid requirements by a two-thirds vote of the Board membership and award Contract S-970 to Youngquist Brothers LLC (Youngquist) for the construction of two (2) municipal injection wells for the Miami-Dade County Water and Sewer Department's (WASD's) Central District Wastewater Treatment Plant (CDWWTP). This bid waiver was negotiated with Youngquist because it is the only company currently qualified to construct the vital infrastructure needed to comply with the Florida statutes that require the elimination of effluent discharge to the Atlantic Ocean by 2025. The resolution also requests that the Board authorize the County Mayor or County Mayor's designee to use Section 2-8.2.12 of the Code of Miami-Dade County (WASD Acceleration Ordinance) to manage this Contract.

#### **Recommendation**

It is recommended that it is in the best interest of Miami-Dade County (County): (1) to waive the competitive bidding requirements of Section 2-8.1(b) of the County Code and Section 5.03(D) of the County Charter and Section 255.20(1)(c)(10), Florida Statutes, by a two-thirds vote of the Board membership; (2) to approve the award of Contract S-970 to Youngquist to construct two (2) municipal injection wells at the CDWWTP; and (3) to authorize the County Mayor or County Mayor's designee to use the WASD Accelerate Ordinance to manage this Contract. The Contract is attached hereto as Exhibit 1. A recommendation to waive competitive bidding from the Engineer of Record for this Project is attached hereto as Exhibit 2.

#### **Scope**

This item is of countywide significance because the County's wastewater system is interconnected. The two (2) deep injection wells will be constructed at the CDWWTP, located in District 7, which is represented by Commissioner Raquel A. Regalado.

#### **Delegation of Authority**

Upon Board approval of the Contract and authorization to manage this Contract pursuant to the WASD Accelerate Ordinance, the County Mayor or County Mayor's designee will have the authority to exercise all provisions within the Contract. In addition, the County Mayor or County Mayor's designee will have the authority to manage this Contract pursuant to Section 2-8.2.12 of the Miami-Dade County Code (WASD Acceleration Ordinance), which delegates authority to the County Mayor or County Mayor's designee to, among other things, negotiate and settle claims and execute change orders that do not exceed ten percent (10%) of the base contract amount, subject to ratification by the Board.

Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners Page 2

# **Fiscal Impact/Funding Source**

Pursuant to the negotiated terms of Contract S-970, the construction of the two (2) deep injection wells, including all labor, materials, and equipment, will be performed for an amount not to exceed \$29,320,986. The amount negotiated is contingent upon the issuance of a notice to proceed (NTP) on or before July 30, 2022. The price escalation clause in the Contract will be triggered if the NTP is issued after that date. The base bid proposal was 5.5% above the EOR's base bid cost estimate.

Contract S-970 will be funded by the Project Wastewater – Outfalls Legislation, OMB# 962670, in the FY2021-22 Proposed/Adopted Budget and Multi-Year Capital Plan, page 75. The funding sources are WIFIA Loans, Revenue Bonds Sold, State Revolving Loans, Wastewater Connections Charges, Wastewater Special Construction Fund, and Future WASD Revenue Bonds.

## Track Record / Monitor

WASD's Deputy Director of Capital Improvements, Marisela Aranguiz, P.E., will oversee the implementation of the construction of the wells.

## Background

On June 30, 2008, Governor Charlie Crist signed Senate Bill 1302 related to wastewater disposal/ocean outfalls (Section 403.086(9) of the Florida Statutes) (the "Ocean Outfall Legislation"). This law requires all Southeast Florida utilities utilizing ocean outfalls for disposal of treated wastewater to:

- Eliminate the normal use of ocean outfalls by the end of 2025, except for peak flow management not to exceed five percent of the annual baseline, as amended in 2013
- Reduce nutrient discharges by implementing advanced wastewater treatment by 2018 or equivalent
- Reuse sixty percent of the wastewater flows by 2025

The Ocean Outfall Legislation relates to Miami-Dade County because the County has two ocean outfalls — one located at the North District Wastewater Treatment Plant (NDWWTP) and the other located at the CDWWTP. WASD uses both ocean outfalls.

The construction of Class I Municipal Injection wells, also known as deep injection wells (DIW), is the only viable effluent disposal alternative to ocean outfalls for the wastewater flows in the County. To that end, WASD is currently constructing seven (7) DIW at CDWWTP and five (5) DIW at the NDWWTP, which, collectively, will account for 224 million gallons per day (mgd) of additional effluent disposal capacity. Youngquist was awarded the construction of the 12 aforementioned DIWs through competitively solicited contracts.

In addition, to augment the existing permitted disposal capacity at the CDWWTP, WASD intends to construct two (2) additional DIW at the CDWWTP through the proposed Contract S-970 with Youngquist. The two (2) additional wells will be installed at the CDWWTP, which is the same worksite where Youngquist is already mobilized and currently constructing the seven (7) municipal injection wells. Consequently, the necessary personnel, drilling rigs, and infrastructure are already in place to facilitate the construction of the two (2) new municipal deep injection wells. In addition, Youngquist has the capability of constructing the wells in the necessary timeframe.

Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners Page 3

This Project will add 37.3 million gallons per day (mgd) of additional treated effluent disposal capacity. Maximizing capacity at the CDWWTP ensures the County is on a solid path to compliance with OOL and allows the postponement of capital expenditures estimated at approximately \$2 billion related to constructing a new West District Wastewater Treatment Plant.

WASD evaluated the procurement options for constructing the two (2) additional wells and determined that the best course of action was to procure the construction of the two (2) new wells through a bid waiver rather than issuing a new competitive bid because of: 1) the specialized nature of municipal injection wells, 2) the Project's location at the CDWWTP where Youngquist is already constructing seven (7) municipal injection wells, and 3) the fact that Youngquist is the only company currently qualified to perform the scope of work for this Contract.

Due to the specialized nature of the construction projects and the strict design and stringent testing requirements of the Florida Department of Environmental Protection (FDEP), the number of firms qualified to perform the work needed for this Contract is exceedingly limited. Further, large-diameter (24-inch) Class I municipal deep injection wells constructed to depths of 3,000 feet or greater, such as what is needed for this Project, are unique to Florida and particularly Southeast Florida, and Youngquist is uniquely qualified to undertake this work based on its credentials and past experience with similar projects for the County.

In July 2020, the "State of the Industry for Procurement of Deep Injection Well Procurement" was updated. This update included a national survey of potential DIW contractors and updates on the DIW contractors doing business in Florida. While it is encouraging that some firms are entering the DIW market, other than Youngquist, none currently have demonstrated the qualifications required for WASD projects. Accordingly, it would be in the County's best interests to waive the competitive bid requirements for this Project by a two-thirds vote of the Board membership and approve Contract S-970 with Youngquist.

#### **Small Business Measures**

The Small Business Development Division (SBD) reviewed this project pursuant to Implementing Order 3-22 for Small Business Enterprise measures and determined a 0.93% SBE-Construction is appropriate while no SBE – Goods and Services goals apply. Davis-Bacon Heavy Wage Rates are applicable. The SBD Project Worksheet is attached hereto as Exhibit 3.

Jimmy Morales Chief Operations Officer

# CONTRACT

THIS CONTRACT, made and entered into on the \_\_\_\_\_\_, 2022, by and between Miami-Dade County, Florida, acting by and through the Office of the Mayor, party of the first part (hereinafter sometimes called the "County"), and Youngquist Brothers, LLC, party of the second part (hereinafter sometimes called "Contractor");

# WITNESSETH

That the parties hereto, for and in consideration of the covenants and agreements hereinafter set forth, mutually agree as follows, to wit:

1. That the Contractor shall furnish all labor, materials and equipment and perform all work in the manner and form provided by the Contract Documents covering the Project of the County known and identified as

# "OCEAN OUTFALL LEGISLATION PROGRAM CONSTRUCTION PACKAGE CE-5, CDWWTP MUNICIPAL INJECTION WELLS 10 & 11, CONTRACT NO. S-970"

for the aggregate amount reflected by the Proposal, said aggregate amount being of Twenty-Nine Million, Three Hundred and Twenty Thousand and Nine Hundred and Eighty-Six Dollars and No Cents (U.S. Dollars) \$29,320,986.00.

2. That the Contractor shall begin the work to be performed under this Contract on a day to be specified in a written order issued by the Engineer and shall fully complete all work hereunder within the time or times stated in the Proposal.

3. That the County shall pay to the Contractor for the faithful performance of this Contract, in lawful money of the United States, and subject to additions and deductions as provided in the ContractDocuments, the total amount of the Proposal as set forth above at the times and in a manner stated in theGeneral Covenants and Conditions of the Contract Documents.

4. It is further mutually agreed that if at any time after the execution of this Contract, Surety Performance and Payment Bond, the County shall deem the surety upon such bonds to be unsatisfactory, or if for any reason such bond shall become inadequate to cover the performance of the work, the Contractor shall at its own expense, within five (5) days after the receipt of notice from the County to do so, furnish an additional bond or bonds in such form and amount and with such surety or sureties as shall be satisfactory to the County. In such event, no further payment to the Contractor shall be deemed to be due under this Contract until such new or additional security shall have been furnishedin a manner and form satisfactory to the County.

5. The "Contract Documents" are hereby defined as the Questionnaire, the Advertisement for Bids, the Instructions to Bidders, the Proposal, the Certified Resolution (Proposal/Prescribed Bid Bond), the Prescribed Bid Bond, the Contract, the Surety Performance and Payment Bond, the Certified Resolution (Contract/ Surety Performance and Payment Bond), the General Terms and Conditions, theSupplemental General Terms and Conditions, Special Provisions, the Supplemental General Conditions(if Ordinance 90-143 is applicable) including Wage and Benefit Schedules, the Specifications, the Plans, any Addenda which may be issued, the Subcontractor /Supplier Listing Form (Ordinance 97-104 as amended by Ordinance 00-30), the Reporting Subcontracting Policies and Procedures (Ordinance 98 - 15 9), the Small Business Enterprise Programs Participation Provisions and Forms (if applicable), and the provisions for the following: Vendors Affidavit (Uniform County Affidavits); Criminal Record (Felony) (as amended by Ordinance 00-30; Community Workforce Program County Code Section 2-1701, Office of Miami-Dade County Inspector General (IG) (if Ordinance 97-215 as amended by Ordinance 99-15 is applicable); Sworn Statement – Public Entity Crimes [Florida Statute Sect. 287.133 (3) (a)];

# CONTRACT

Change Orders; Notice to Proceed, Referenced Codes and Standards, Warranties and Guarantees, all related correspondence, field notes, logs, and other documents.

The General Terms and Conditions of said Contract Documents are incorporated herein by reference andmade a part hereof as though fully set forth herein. The Contract Documents are complementary, so that a recital in one is tantamount to a recital in all, and the Contractor specifically acknowledges that it has read and understands all of said Contract Documents.

a. Duration: In all Contract Documents, the duration of the Project shall be replaced with the following information: 866 days to Substantial Completion and 926 days to Final Completion.

b. Price Escalation: The Contract pricing reflected in the Base Bid of \$25,617,260.00 (the "Base Bid") is contingent upon an NTP being issued on or before July 30, 2022. If the NTP date is after July 30, 2022, the Base Bid will increase on a month to month basis until the actual NTP date. The increase shall be based upon the Engineering News-Record (ENR) Construction Cost Index.

c. UAP: The User Access Program ("UAP") 2% fee is applicable to this project.

d. Project Worksheet Goals: The Project will have an SBE Construction Subcontractor goal of 0.93%. There is no goal for SBE Goods & Services. The Community Workforce Program (CWP) does not apply. The Residents First Training and Employ Miami-Dade programs are applicable. SBE Subcontractor and amount spent toward goal shall be reported monthly until goal is met.

6. The various indemnities of the Contractor contained in the Contract Documents indemnifying the County from liability for damages to persons or property caused by acts, omissions, or defaults in the performance of the Contract Documents shall have a monetary limitation of the larger of the following: \$1,000,000.00, or the entire amount of the Contract.

7. The County retains the right to audit any and all information regarding this Contract as described in the General Covenants and Conditions, Section 41" Audit Rights and Review of Records".

Notwithstanding and prevailing over any other provision of the Contract Documents to the 8. contrary, the County Mayor or Mayor's designee's, may exercise the provisions of Section 2-8.2.12 (4)(d) and (e) of the Code of Miami-Dade County. Any change orders or amendments shall not exceed 10 percent of the base contract price in cumulative percentage amount; provided however, that the foregoing limitation shall not apply to any change order or amendment related to emergency actions impacting remediation, public safety, health requirements or recovery from natural disaster and the foregoing change orders and amendments shall require ratification by the Board: provided further that the County Mayor or his designee may reduce in any amount the scope and compensation payable under this Contract and grant compensable and noncompensable time extensions thereunder. Pursuant to Section 2-8.2.12 (5), the County Mayor or the County Mayor's designee's award and execution of this Contract is subject to ratification by the Board of County Commissioners. If the Mayor or the Mayor's designee's action is not ratified, and such legislative action becomes final, this Contract shall be deemed terminated without further notice. In such event, the Contractor shall not be entitled to recovery of any lost profits or other consequential or indirect damages. However, the Contractor is eligible for payment for any work done prior to failure of the ratification, in accordance with General Terms and Conditions Article 11.D(1) Termination for Convenience.

#### CONTRACT

IN WITNESS WHEREOF, the parties hereto have executed this Contract in four (4) counterparts, eachof which shall be deemed an original Contract, all as of the day and year first hereinbefore written.

(OFFICIAL SEAL)

ATTEST: Harvey Ruvin

Clerk of the Board

MIAMI DADE COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

By:\_\_\_\_\_ Deputy Clerk By: \_

Mayor or Mayor's Designee

(PARTY OF THE FIRST PART)

Approved as to Form and Legal Sufficiency

Assistant County Attorney

WHEN THE CONTRACTOR IS A CORPORATION LLC

(CORPORATION SEAL)

ATTEST

Secretary)

Timothy G. Youngquist Secretary/ (Print or Type Name) Youngquist Brothers, LLC (Name of <del>Corporation</del>) LLC

(Signature of Officer)

Harvey Youngquist, Jr. (Print or Type Name)

Vice President / Manager (Official Title)

15465 Pine Ridge Road

Fort Myers, FL 33908 (Address)

#### (PARTY OF THE SECOND PART)

\* Attach to each counterpart a certified copy of a resolution of the Board of Directors of the corporation authorizing the officer who signs the Contract and Surety Performance and Payment Bond to do so in its behalf.

Bv

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Stantec Consulting Services Inc.

2056 Vista Parkway, Suite 100 West Palm Beach, FL 33411 TEL 561 686-7707 | FAX 561 209-7465 www.stantec.com



April 11, 2022

Mr. Roy Coley Director Miami-Dade Water and Sewer Department 3071 SW 38<sup>th</sup> Ave., Room 554-10 Miami, FL 33146

Reference: CE-5 (S-970) Recommendation to Waive Competitive Selection Process

Dear Mr. Coley,

As the Engineer of Record for the subject project, Stantec is making this recommendation pursuant to Section 255.20(1)(c)10.d, Florida Statutes. Stantec has reviewed the proposed scope of work for Contract S-970 for the construction of two (2) municipal injection wells for the Miami-Dade County Water and Sewer Department's (WASD's) Central District Wastewater Treatment Plant (CDWWTP). Our recommendation is to waive the competitive selection process for this project for the following reasons.

- The specialized nature of municipal deep injection wells (DIWs). Class I Municipal Injection wells are used to inject non-hazardous effluent into deep, confined rock formations to a depth below the underground source of drinking water. Because of the strict design and testing requirements of the Florida Department of Environmental Protection (FDEP), the number of firms qualified to perform the work is exceedingly limited.
- Based upon extensive market research and the competitive bidding history for other DIW construction, including three recent DIW projects for WASD (SE-2, CE-2, and NE-2), Youngquist Brothers, LLC, (Youngquist) is the only company currently qualified by WASD to perform the scope of work for this contract.
- 3. The two (2) additional wells for Contract S-970 will be installed at the CDWWTP, the same worksite where Youngquist is already mobilized to construct seven (7) municipal injection wells. Consequently, the necessary personnel, drilling rigs and infrastructure is already in place to facilitate the construction of the two (2) new municipal deep injection wells. In addition, Youngquist has the capability of constructing the wells in the necessary timeframe.

Please contact me with any questions or comments.

Kind regards,

Stantec

Hoot K. Startz

Heath R. Wintz, P.E. Senior Engineer heath.wintz@stantec.com

cc: Gerrit Bulman, OOL Virginia Walsh, WASD

Design with community in mind

Exhibit 3

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# **Small Business Development Division**

**Project Worksheet** 

Project/Contract Title:		lation Program Construction WTP Municipal Injection Wells 10 &	Received Date: 3/14/2022
Project/Contract No:	S-970 Funding Source: WIFA, SRF		
Department:	Water & Sewer		
Estimated Cost of Project/Bid:	\$27,902,707.00		
	high-level disinfect the OOL Program C deep injection well	s, with a total capacity of 37.3 million ion (HLD) treated effluent disposal cap E-5 Project, and the two new wells will s currently under construction (OOL Content mi-Dade Water and Sewer Department Miami, FL 33149.	acity. This project is also referred to I augment the seven (7) large diamet E-2 project, S-970). The CDWWTP is
		Contract Measures	
	Measure	Program	Goal Percent
	Goal No Measure No Measure No Measure	SBE - Con SBE - Goods SBE - Services CWP	0.93%

#### **Reasons for Recommendation**

#### SMALL BUSINESS ENTERPRISE - CONSTRUCTION (SBE-Con).

SBD reviewed this project pursuant to Implementing Order(s) 3-22 for SBE-Con measures. Project information analyzed included the project's scope of services, minimum requirements/qualifications and funding source. Additional factors included surveys conducted with certified firms to determine availability and assignment of the noted measure.

An analysis of the factors contained in Implementing Order 3-22 indicates a 0.93% SBE-Construction (SBE-Con) sub-contractor goal is appropriate for this contract for the trade of Site Preparation Contractors (0.93%-Site Preparation, 0.89%; Demolition/Hauling, 0.035%).

Davis-Bacon Heavy Wage Rates are applicable. For federally funded projects unless prohibited by federal or state law or disallowed by a governmental funding source the highest rate between Davis Bacon Wages and Responsible Wages and Benefits shall apply.

#### SMALL BUSINESS ENTERPRISE – Goods & Services (SBE-Goods & Services).

An analysis of the factors contained in Implementing Order 3-41 & Ordinance 14-41 indicates a No Measure is appropriate as no SBE-Goods & Services opportunities could apply.

Please Note: Based upon extensive market research and the competitive bidding history for DIW construction, Youngquist Brothers, Inc. ("YBI") is the only company qualified to perform the scope of work for contract S-970. The contract will not be awarded through the competitive bidding process, but as a designated purchase agreement.

CWP Not Applicable: Not In A DTA

	nmercial and Institutional Bo ter and Sewer Line and Rela					uction,
ing Wages: vis Bacon:	YES NO X	Highway: YES Building: YES		Heavy Construction:	YESX	NO
	SBD Director		_	3/23/22 Date		



**MEMORANDUM** 

# (Revised)

TO: DATE: Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners

June 1, 2022

Bonzon-Keenan

FROM: County Attorney SUBJECT: Agenda Item No. 8(O)(3)

Please note any items checked.

	"3-Day Rule" for committees applicable if raised
I	6 weeks required between first reading and public hearing
	4 weeks notification to municipal officials required prior to public hearing
	Decreases revenues or increases expenditures without balancing budget
	Budget required
	Statement of fiscal impact required
	Statement of social equity required
	Ordinance creating a new board requires detailed County Mayor's report for public hearing
$\checkmark$	No committee review
	Applicable legislation requires more than a majority vote (i.e., 2/3's present, 2/3 membership $\checkmark$ , 3/5's, unanimous, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c), CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c), or CDMP 9 vote requirement per 2-116.1(4)(c)(2)) to approve
	Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved	Mayor	Agenda Item No. 8(O)(3)
Veto		6-1-22
Override		

#### RESOLUTION NO.

RESOLUTION WAIVING THE COMPETITIVE BIDDING **REQUIREMENTS OF SECTION 255.20 OF THE FLORIDA** STATUTES, SECTION 2-8.1(B)(1) OF THE COUNTY CODE AND SECTION 5.03(D) OF THE COUNTY CHARTER BY A TWO-THIRDS VOTE OF THE BOARD MEMBERSHIP; APPROVING THE AWARD OF CONTRACT S-970 TO YOUNGQUIST BROTHERS, INC. IN AN AMOUNT NOT TO EXCEED \$29,320,986.00 FOR THE CONSTRUCTION OF TWO MUNICIPAL INJECTION WELLS AT THE CENTRAL DISTRICT WASTEWATER TREATMENT PLANT; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE EXERCISE TO ALL PROVISIONS OF THE CONTRACT: AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO UTILIZE **MIAMI-DADE** WATER AND **SEWER** DEPARTMENT'S CONSENT DECREE AND CAPITAL IMPROVEMENT PROGRAMS ACCELERATION ORDINANCE, SECTION 2-8.2.12 OF THE CODE OF MIAMI-DADE COUNTY, TO MANAGE **CONTRACT S-970** 

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by this reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board finds it in the best interest of the County to waive the competitive bidding requirements of section 255.20 of the Florida Statutes, section 2-8.1(b)(1) of the County Code and section 5.03(D) of the County Charter by a two-thirds vote of the Board membership and approves the award of Contract S-970 to Youngquist Brothers, Inc. in an amount of \$29,320,986.00, for the construction of two Deep Injection Wells, in substantially the form attached to the accompanying memorandum as Exhibit 1. The Board also authorizes the County Mayor or County Mayor's designee to exercise all provisions of the Contract and to use the Miami-Dade Water and Sewer Department's Consent Decree and Capital Improvement Programs Acceleration Ordinance, section 2-8.2.12 of the Code of Miami-Dade County, to manage the Contract.

Agenda Item No. 8(O)(3) Page No. 2

The foregoing resolution was offered by Commissioner

who moved its adoption. The motion was seconded by Commissioner

and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman Oliver G. Gilbert, III, Vice-Chairman Sen. René García Keon Hardemon Sally A. Heyman Danielle Cohen Higgins Eileen Higgins Joe A. Martinez Kionne L. McGhee Jean Monestime Raquel A. Regalado Rebeca Sosa Sen. Javier D. Souto

The Chairperson thereupon declared this resolution duly passed and adopted this 1<sup>st</sup> day of June, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

#### MIAMI-DADE COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:\_\_\_

Deputy Clerk

Approved by County Attorney as to form and legal sufficiency.



Sarah E. Davis