

Memorandum



Date: January 20, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Resolution Ratifying the Action Related to Miami-Dade Water and Sewer Department Consent Decree and Capital Improvement Programs Acceleration Ordinance pursuant to Section 2-8.2.12 of the Miami-Dade County Code

Agenda Item No. 8(O)(2)

Resolution No. R-52-21

Recommendation

It is recommended that the Board of County Commissioners (Board) ratify the action of the County Mayor or County Mayor’s designee as authorized under Section 2-8.2.12 of the Miami-Dade County Code related to Miami-Dade Water and Sewer Department’s Consent Decree and Capital Improvement Programs Acceleration Ordinance (WASD Acceleration Ordinance) for the funded project identified below and on Exhibit A, as attached.

Capital Improvement Project

Item 1– Change Order No. 1 to Contract No. S-911 is for a 128-day non-compensable time extension between Miami-Dade County Water and Sewer Department (WASD) and David Mancini & Sons (DMSI) for the installation of a 42-inch ductile iron water main and a 10-inch force main between the intersection of Biscayne Boulevard (SR-5/US-1) and NE 5th Street to Port of Miami and Pump Station 9141 Replacement.

Scope

As shown on Exhibit A, which provides basic information about Change Order No. 1, the project is located within District 5, which is represented by Commissioner Eileen Higgins.

Fiscal Impact/Funding Source

Approval of Change Order No. 1 will have no fiscal impact to the County because Change Order No. 1 provides the contractor, DMSI, with a 128-day non-compensable time extension on the project and does not add any monies to Contract S-911. All costs associated with the time extension were approved and paid through the Contract’s contingency allowance.

Track Record/Monitoring

WASD Deputy Director of Capital Improvements, Hardeep Anand, will oversee the implementation of Change Order No. 1 to Contract No. S-911.

Background

On September 3, 2014, the Board approved Ordinance No. 14-77 authorizing the County Mayor or County Mayor’s designee to award and amend contracts, and negotiate and issue change orders for funded capital projects and to accelerate the approval of WASD’s: 1) Consent Decree projects, and 2) projects identified in WASD Multi-Year Capital Plan’s Capital Improvements Program, subject to ratification by the Board.

In February 2018, after a competitive solicitation, Contract S-911 was awarded to DMSI for the installation of a 42-inch ductile iron water main and a 10-inch force main between the intersection of Biscayne Boulevard (SR-5/US-1) and NE 5th Street to Port of Miami and Pump Station 9141 Replacement. The total amount of the award was \$20,884,160.89 with a contract duration of 330 calendar days to Final Completion and a Contingency Time Allowance of 33 days. The Notice to Proceed was issued on March 21, 2018, establishing December 16, 2018 as the Contract’s original Substantial Completion date and February 14, 2019 as the Contract’s original Final Completion date. During construction, WASD approved 33 days of time revising the Substantial Completion date to January 18, 2019 and the Final Completion date to March 19, 2019.

DMSI encountered four delays that affected the Contractor’s critical path. A 128-day non-compensable time extension is justified for the following reasons:

1) Conflict with an existing 36-inch storm pipe (Three days)

During the excavation and installation of the 42-inch water main, DMSI determined that an existing 36-inch stormwater pipe was lower than shown in the plans and was in direct conflict with the proposed design plan layout for the 42-inch water main. DMSI was directed to offset the 42-inch water main, which took three days to complete at a cost of \$29,407.23. The cost was paid through Contract S-911’s Contingency Allowance Account.

2) Relocation of the water main to avoid future conflict (21 days)

As part of the scope of work for Contract S-911, the Port of Miami (POM) requested a re-design of the proposed installation of a 30-inch water main and connecting 12-inch water main in the area along Australia Way. POM made this request because it was engaged in on-going construction of the Port’s Terminal “B” Building, and the proposed route of the 12-inch water main was in conflict with the design of the Port’s Terminal “B” Building. WASD’s plans were, therefore, revised to accommodate POM’s request, and the extra work took 21 days at a cost of \$99,781.11 to complete. The cost was paid through Contract S-911 Contingency Allowance Account.

3) Contaminated Soil (59 days)

During the excavation and installation of the 42-inch water main, DMSI found contaminated soil. DMSI was directed to remove and dispose of the contaminated soil and replace it with clean soil at a cost of \$114,896.57. The cost was paid through Contract S-911’s Contingency Allowance Account and took 59 days to complete.

4) FDOT Regulatory Change (45 days)

Due to regulatory changes, the Florida Department of Transportation (FDOT) required additional roadway restoration, including the installation of a reinforced concrete slab. FDOT also imposed new lane closure requirements on the project, which slowed the rate DMSI could work. The changes imposed by FDOT caused a delay to DMSI of 45 days. DMSI was paid \$83,416.21 through Contract S-911’s Contingency Account for this work.

Change Order No. 1 provides for a non-compensable time extension of 128 days, which extends the Contract’s Substantial Completion date to May 26, 2019 and the Contract’s Final Completion date to July 25, 2019.

Small Business Enterprise Measures

In July 2020, prior to the issuance of Change Order No. 1, the Internal Services Department’s Small Business Development (SBD) Division reviewed Contract S-911 for compliance with a 5.35 percent Small Business Enterprise - Goods and Services (SBE-G/S) goal; a 8.65 percent SBE-Construction (SBE-Con) goal; and Responsible Wages and Benefits requirements. SBD determined that DMSI was in compliance with the goals and Responsible Wages and Benefits. Final compliance with the workforce requirements will be determined at project closeout. See the SBD memorandum, attached hereto as Exhibit B.

Attached here to as Exhibit C is the Change Order identified in this memorandum, which has been executed by the County Mayor or County Mayor’s designee in accordance with WASD’s Acceleration Ordinance. A copy of the original construction contract is available upon request from the Department’s Procurement Division.

Attachments



Jimmy Morales
Chief Operations Officer

Exhibit A

Ratification of Amendments/Change Orders Authorized by the WASD Accelerate Ordinance

No.	Type of Solicit.	Contract No.	Project Name	Firm Awarded	Comm. District	Change Order		Original Contract		Funding Source(s)	Est. Start Date		Contract Measures	Brief Project Description	
	Contract Type	Project No.				Amount	Time	Amount	Adjusted Contract Amount		Date	End Date		Change Order Description	
1	County Bid Process; Construction Contract	Contract No. S-911	Installation of 42-Inch D.I. Water Main and 10-Inch Force Main Between the Intersection of Biscayne Boulevard (SR-5/US-1) and NE 5th Street to Port of Miami and Pump Station 9141 Replacement	David Mancini & Sons, Inc.	District 5 (Eileen Higgins)	\$0;	128-day non-compensable time extension	Original Contract Amount \$20,884,160.89; Adjusted Contract Amount \$20,884,160.89		Water Connection Charges; WASD Revenue Bond Sold; Future WASD Revenue Bonds	Notice to Proceed Start Date: 03/21/2018 Completion Date: 7/25/2019		SBE G/S - 5.35% SBE A/E - N/A SBE Const. - 8.65% CWP Prog. - N/A	This project is to increase the capacity of the water transmission lines and wastewater infrastructure required in accordance with the Port's 2035 Master Plan and to accommodate proposed terminals for RCCL. This Change Order is for a 128-day of non-compensable time extension.	

Memorandum



Date: July 31, 2020

To: Kevin T. Lynskey, Director
Miami-Dade Water and Sewer Department

From: Gary T. Hartfield, Director
Small Business Development Division
Internal Services Department 

Subject: Project No. S-911, Installation of 42 Inch DI Water Main - Change Order No. 1

Change Order No. 1 to Project No. S-911, Installation of 42 Inch DI Water Main was reviewed for application of Small Business Enterprise (SBE) measures, and the project was reviewed for compliance with the Small Business Enterprise goals, Responsible Wage and Benefits and Community Workforce Program requirements. Change Order No. 1 extends the time only. The contract was awarded with an 8.65% SBE-Construction (SBE-Construction) and 5.35% SBE-Goods (SBE-Goods) goal which remain the same for Change Order No. 1. Resolution No. R-1001-15 requires County contracts with small business measures meet at least 85 percent of the small business goals applicable to the portion(s) of the contract work performed to date before a change order or contract amendment is considered for Board approval. Resolution R-525-17 exempted change orders or amendments for non-compensatory time extensions from this requirement. Change Order No. 1 is for a time extension only, as such R-1001-15 does not apply.

The prime contractor, David Mancini & Sons, Inc. (DMSI) has performed \$17,998,128 to date. The 5.35% SBE-Goods goal is equal to \$962,899. The SBE-Goods vendor has performed and been paid \$2,092,164. The 8.65% SBE-Construction goal is equal to \$1,556,838. The SBE-Construction subcontractors have performed \$1,848,076 and been paid \$1,671,212. The prime is on compliance with the goals and Resolution R-1001-15.

DMSI is in compliance with the Responsible Wages and Benefits. One subcontractor, Southern Underground, was issued a Notice of Violation for underpayment of wages to employees. Southern Underground agreed with the underpayment, paid the penalty and is currently working on paying employees the wages due.

DMSI is in compliance with the Community Workforce Program (CWP), Residents First Training and Employment Program and Employ Miami-Dade Program. DMSI's workforce plan, accepted on March 13, 2018, reported a total workforce of 52 employees requiring five (5) CWP positions for compliance with the 10% goal and ten (10) positions for compliance with the Employ Miami-Dade Program. Two (2) employees were approved to meet the CWP goal. Seventeen (17) employees were reported to have residency in Miami-Dade County. DMSI has reported three (3) new hires for the project for compliance with the Employ Miami-Dade Program. Final compliance with the workforce requirements will be determined at project completion. Please contact Alice Hidalgo-Gato, SBD Section Chief, at 786-322-8547 for additional information.

c: Doug Yoder, Deputy Director, WASD
Hardeep Anand, Deputy Director, WASD
Patricia Hernandez, Legislative and Municipal Affairs Special Assistant, WASD
Margaret Moss, Chief, Small Business Initiatives, WASD
Edith Brown, Chief, Contract Compliance Division, WASD
Donna Palmer, SPA 1, WASD
Aric Barto, Project Manager, WASD
Warren Howard, CM Operations Manager, Consent Decree PMCM Team, WASD

MIAMI-DADE COUNTY, FLORIDA

WATER AND SEWER

CHANGE ORDER TO ORIGINAL CONTRACT



CHANGE ORDER NO: 1 CONTRACT NO: S-911 DATE: 9/1/2020
 PROJECT TITLE: Installation of 42-Inch D.I. Water Main and 10-Inch Force Main Between the Intersection of Biscayne Boulevard (SR-5/US-1) and NE 5th Street to Port of Miami and Pump Station 9141 Replacement
 TO CONTRACTOR: DAVID MANCINI & SONS INC 3401 N. Miami Avenue, Suite 214 Miami, FL 33127

YOU ARE HEREBY REQUESTED TO MAKE THE FOLLOWING CHANGES IN THE PLANS AND SPECIFICATIONS FOR THIS PROJECT AND TO PERFORM THE WORK ACCORDINGLY, SUBJECT TO ALL CONTRACT STIPULATIONS AND COVENANTS.

Description of work authorized: Increase in contract duration of 128 days

Monetary Justification: Not Applicable

Time Justification: In February 2018, after a competitive solicitation, Contract S-911 was awarded to DMSI for the installation of a 42-inch ductile iron water main and a 10-inch force main between the intersection of Biscayne Boulevard (SR-5/US-1) and NE 5th Street to Port of Miami and Pump Station 9141 Replacement. The total amount of the award was \$20,884,160.89 (Continued below)

This change order includes not only all direct costs of contractor such as labor, material, job overhead, and profit markup; but also includes any costs for modifications or changes in sequence of work to be performed, delays, rescheduling, disruption, extended direct overhead or general overhead, acceleration, material or other escalation which include wages and other impact costs.

Contractor hereby waives, fully releases, discharges and acquits Miami-Dade County of any and all liability for claims, additional costs, and any requests for additional time arising out of the fulfillment of the contract and this change order from the date of the contract award to and including execution of this change order.

SUMMARY OF CONTRACT AMOUNT / TIME

ORIGINAL CONTRACT AMOUNT-----	\$20,884,160.89
COST OF CHANGES PREVIOUSLY ORDERED-----	\$0.00
ADJUSTED CONTRACT AMOUNT PRIOR TO THIS CHANGE-----	\$20,884,160.89
COST OF CHANGES WITH THIS DOCUMENT-----	\$0.00
ADJUSTED CONTRACT AMOUNT INCLUDING THIS CHANGE-----	\$20,884,160.89
PERCENT INCREASE WITH THIS CHANGE-----	0%
TOTAL PERCENT INCREASE TO DATE-----	0%
TIME: ORIGINAL CONTRACT / PREVIOUS CHANGES / THIS CHANGE-----	330 / 0 / 128
CONTINGENCY TIME: ORIGINAL CONTRACT / PREVIOUS CHANGES / THIS CHANGE-----	33 / 0 / 0
ADJUSTED DURATION INCLUDING THIS CHANGE-----	491

CERTIFYING STATEMENT: *The Contractor certifies that the changes and supporting cost data included is in its considered opinion necessary and accurate and that the prices quoted are fair and reasonable.*

Accepted By:

Organization	Name	Title	Date
DAVID MANCINI & SONS INC		Contractor	9/1/20
Surety Travelers Casualty and Surety Co. of America	 Tamar R. Pittman Attorney-in-Fact	Surety	9/9/2020

Title	Name	Date
Approved By: <u>County Attorney</u> (for legal sufficiency)		9/17/20
Approved By: <u>County Mayor</u>		10/26/2020
Attested By: <u>Clerk of the Board</u>		10/28/2020



Time Justification: (Continued)

with a contract duration of 330 calendar days to Final Completion and a Contingency Time Allowance of 33 days. The Notice to Proceed was issued on March 21, 2018, establishing December 16, 2018 as the Contract's original Substantial Completion date and February 14, 2019 as the Contract's original Final Completion date. During construction, WASD approved 33 days of time revising the Substantial Completion date to January 18, 2019 and the Final Completion date to March 19, 2019.

DMSI encountered four delays that affected the contractor's critical path. A 128-day non-compensable time extension is justified for the following reasons:

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Change Order No. 1 provides for a non-compensable time extension of 128 days, which extends the Contract's Substantial Completion date to May 26, 2019 and the Contract's Final Completion date to July 25, 2019.

This change order is revocable if not ratified by the Board of County Commissioners. In the event the Board of County Commissioners does not ratify this Change Order, the Contractor is not entitled to lost profits or other consequential or indirect damages; however, the Contractor is eligible for payment for any work done prior to failure of ratification.

Time Justification Declaration:

A time extension is provided for additional work performed outside the scope of the original Contract that affects the critical path schedule of the contracted work or previously approved changes. Should additional work be required which does not affect the critical path schedule, no time extension will be granted. Should one item of additional work run concurrent with another item of additional work, only time not duplicated can be provided.



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Tamaria R Pittman** of **SOUTHFIELD Michigan**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **17th** day of **January**, 2019.



State of Connecticut

City of Hartford ss.

By: _____

Robert L. Raney
Robert L. Raney, Senior Vice President

On this the **17th** day of **January**, 2019, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, 2021



Anna P. Nowik
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **9th** day of **September**, 2020



Kevin E. Hughes
Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.**



MEMORANDUM

(Revised)

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

DATE: January 20, 2021

FROM: 
Gen Bonzon-Keenan
Successor County Attorney

SUBJECT: Agenda Item No. 8(O)(2)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 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
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 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
Veto _____
Override _____

Agenda Item No. 8(O)(2)
1-20-21

RESOLUTION NO. R-52-21

RESOLUTION RATIFYING ACTION BY COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE RELATED TO MIAMI-DADE WATER AND SEWER DEPARTMENT'S CONSENT DECREE AND CAPITAL IMPROVEMENT PROGRAMS ACCELERATION ORDINANCE PURSUANT TO SECTION 2-8.2.12 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA SPECIFICALLY APPROVING CHANGE ORDER NO. 1 BETWEEN MIAMI-DADE COUNTY AND DAVID MANCINI & SONS, INC. FOR A 128-DAY NON-COMPENSABLE TIME EXTENSION FOR THE INSTALLATION OF 42-INCH DUCTILE IRON WATER MAIN AND A 10-INCH FORCE MAIN BETWEEN THE INTERSECTION OF BISCAYNE BOULEVARD (SR-5/US-1) AND NE 5TH STREET TO PORT OF MIAMI AND PUMP STATION 9141 REPLACEMENT, CONTRACT NO. S-911

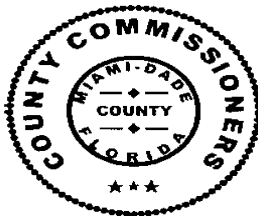
WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board ratifies the action of the County Mayor or County Mayor's designee, as authorized by Section 2-8.2.12 of the Code of Miami-Dade County, specifically, to approve the Change Order No. 1 between Miami-Dade County and David Mancini & Sons, Inc., attached to the accompanying memorandum as Exhibit C, for a 128-day non-compensable time extension for the installation of a 42-inch ductile iron water main and a 10-inch force main between the intersection of Biscayne Boulevard (SR-5/US-1) and NE 5th Street to Port of Miami and Pump Station 9141 replacement. The original contract documents are kept on file with and are available upon request from the Procurement Division of the Miami-Dade Water and Sewer Department.

The foregoing resolution was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Eileen Higgins** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of January, 2021. 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: **Melissa Adames**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

SED

Sarah E. Davis