

Date: January 17, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor



Agenda Item No. 8(O)(1)

Resolution No. R-34-24

Subject: Resolution Ratifying Change Order No. 2 to Contract W-944 Related to Section 2-8.2.12 of the Miami-Dade County Code, Miami-Dade Water and Sewer Department Consent Decree and Capital Improvement Programs Acceleration Ordinance

EXECUTIVE SUMMARY

The item seeks ratification by the Board of County Commissioners (Board) of the action of the County Mayor or County Mayor's designee approving Change Order No. 2 to Contract W-944 between Miami-Dade County and Lee Construction Group, Inc. (the "Contractor") to build an Electrical Switchgear Building for the Lime Kiln Plant located at the Alexander Orr Water Treatment Plant (WTP) (the "Project").

As construction progressed, the Project encountered unforeseen conditions related to underground utilities conflicts not shown on the Contract Documents or on the record drawings. These unforeseen conditions halted construction and required installation of an additional underground electrical duct bank for which the Contractor submitted a cost proposal for \$655,098.11 and a 570-day time extension.

Change Order 2 increases the contract amount by \$287,658.11, a 4.59% total cost increase. Ratification of Change Order No. 2 will increase the total Contract amount to \$6,820,557.76. Change Order 2 was already approved by the County Mayor or County Mayor's designee pursuant to the authority delegated in the Miami-Dade Water and Sewer Department's ("WASD's") Consent Decree and Capital Improvement Program Acceleration Ordinance, section 2-8.2.12 of the Miami-Dade County Code.

The decision to proceed with the Change Order under the previously-delegated authority for the County Mayor or Mayor's Designee was to minimize project delays/cost, keep construction moving, and ease the burden on the Small Business Contractor performing the additional work. A third Change Order, which will include, among other things, the remaining costs associated with the revision to the duct bank route and utility conflicts issue, as well the associated time extension necessary, is being brought to the Board for approval simultaneously with this Change Order ratification.

RECOMMENDATION

It is recommended that the Board of County Commissioners (the "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 the Miami-Dade Water and Sewer Department's Consent Decree and Capital Improvement Programs Acceleration Ordinance (WASD's Acceleration Ordinance) for the funded project identified below and on Exhibit A attached hereto.

CAPITAL IMPROVEMENT PROJECT

Item 1– Change Order No. 2 to Contract W-944 is for an increase in the Contract award of \$287,658.11.

DELEGATION OF AUTHORITY

The Contract was awarded pursuant to section 2-8.2.12 of the Miami-Dade County Code related to WASD's Consent Decree and Capital Improvement Program Acceleration Ordinance, which delegates authority to the County Mayor or County Mayor's designee to execute change orders that do not exceed ten percent of the base contract amount, subject to ratification by the Board.

SCOPE

As shown on Exhibit A, which provides basic information about Change Order No. 2, the Project is in District 6, which is represented by Commissioner Kevin M. Cabrera.

FISCAL IMPACT/FUNDING SOURCE

The fiscal impact of Change Order No. 2 to the County is \$287,658.11.

Funding will be from Project 9650031 -WATER RESET PROGRAM – WATER TREATMENT PLANT ALEXANDER ORR, JR. EXPANSION PROGRAM #: 9650031, page 101 in the FY 2023-24 Adopted Budget and Multi-Year Capital Plan. The funding sources are WASD Revenue Bonds Sold and Future WASD Revenue Bonds.

TRACK RECORD/MONITORING

WASD Deputy Director, Planning Regulatory Compliance and Capital Infrastructure, Marisela Aranguiz-Cueto, P.E., will oversee the implementation of Change Order No. 2 to Contract W-944.

BACKGROUND

Contract W-944 was awarded to Lee Construction Group, Inc. (the "Contractor") to build an Electrical Switchgear Building for the Lime Kiln Plant located at the Alexander Orr Water Treatment Plant (the "Project"). The Contract was awarded by the Board on October 2, 2018 via Resolution No. R-1022-18. The total Contract award was \$6,270,105.91, with a Contingency Allowance of \$550,451.85, and a Contract duration of 300-calendar days, with a Contingency Time Allowance of 30 days.

At the beginning of the Project, WASD approved a 30-day non-compensable time extension from the Contract's Contingency Time Allowance that extended the Final Completion date from May 18, 2020 to June 17, 2020.

In March 2021, WASD approved Change Order No. 1 for \$262,793.74 and a 310-day time extension due to electrical enhancements that were needed to improve safety and the life span of the equipment. Change Order No. 1 was ratified by the Board in May 2021 and: (1) increased the total Contract amount to \$6,532,899.65, which represented a 4.19% total cost increase, and (2) extended the Final Completion date to April 23, 2021.

The scope of this Project includes the construction of a new concrete building to house the Lime Kiln Electrical Switchgear equipment and the installation of an underground electrical duct bank from existing Well House (WH) No. 10 at the south end of the Plant to the proposed building to be located in the center of the Plant.

As construction progressed, and upon performing utility locates along the duct bank corridor, the Contractor confirmed that construction of the proposed corridor as shown in the construction drawings was not possible due to the numerous utility conflicts identified. None of the existing conflicts were previously identified in the Contract Documents nor in historical record drawings.

After extensive field verification, the Engineer of Record (“EOR”) presented a new alignment for the duct bank that would enable construction to avoid utility conflicts. The proposed alignment, although longer in length than the original, is considered the safest, most feasible, and cost-effective alternative considering the congested utility corridor. Based on the revised proposed corridor, the Contractor submitted a cost proposal of \$655,098.11 and a time extension of 570 days to: complete the utility locates required to confirm the alignment, construct the duct bank on the new route, and furnish and install the additional electrical duct bank (inclusive of the labor, materials, and equipment).

To expedite the approval of the additional work, ease the burden on the Small Business Contractor performing the work, and avoid further delays, this Change Order increases the Contract amount by \$287,658.11, which represents a 4.59% total cost increase. Pursuant to the delegation of authority authorized by the WASD Acceleration Ordinance, section 2-8.2.12 of the Miami-Dade County Code, because the collective increase to the Contract amount for Change Order Nos. 1 and 2 is within 10 percent of the total base Contract amount, the County Mayor or County Mayor’s designee may approve this Change Order and seek ratification by the Board afterwards.

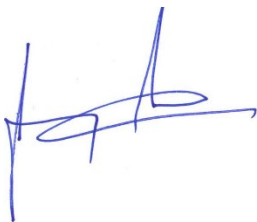
A third Change Order for the remaining costs associated with the utility conflicts and revision to the duct bank route as well as the associated time extension needed will be presented to the Board for approval soon.

SMALL BUSINESS ENTERPRISE MEASURES

On December 1, 2023, the Office of Small Business Development (“SBD”) reviewed Contract W-944 for compliance with a 8.46 percent Construction (SBE-Con) goal, 1.79 percent Goods and Services (SBE-G&S) goal, Residents First Training and Employment, and Employ Miami-Dade requirements. SBD determined that Lee Construction Group, Inc. is in compliance with the SBE-Con, SBE G&S goal, the Residents First Training and Employment and the Employ Miami-Dade requirements; however, Lee Construction is not in compliance with Responsible Wages and Benefits requirements because it failed to pay \$37,011.65 to nine (9) underpaid employees of its subcontractor Luis and Luigi Concrete, LLC. See the SBD memorandum, attached hereto as Exhibit B.

A copy of Change Order No. 2 is attached hereto as Exhibit C.

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	Est. End Date		Change Order Description	
MDC004 ¹	County Bid Process; Construction Contract	Contract No. W-944	Alexander Orr Jr. Water Treatment Plant Lime Kiln Electrical Switchgear Building	Lee Construction Group, Inc.	District 7 (Raquel A. Regalado)	\$287,658.11; N/A		Original Contract Amount \$6,270,105.91; Adjusted Contract Amount \$6,820,557.76		WASD Revenue Bonds Sold; Future WASD Revenue Bonds	Notice to Proceed Start Date: 07/23/2019 Completion Date: 04/23/2021		SBE G/S - 1.79% SBE A/E - N/A SBE Const. - 8.46% CWP Prog. - N/A	This project is for the construction of a new lime kiln electrical switchgear building with provisions to accomodate a new FPL utility feed at the Alexander Orr Jr. Water Treatment Plant. This Change Order is for an increase to the contract amount by \$287,658.11.	

Memorandum



Date: December 1, 2023

To: Roy Coley, Director
Miami-Dade Water and Sewer Department

From: *SA* Gary T. Hartfield, Director *AG*
Office of Small Business Development

Subject: Project No. W-944, Alexander Orr Jr. Water Treatment Plant Lime Kiln Electrical Switchgear Building

Project No. W-944 was awarded with a 8.46% Small Business Enterprise – Construction Services (SBE-Con) goal and a 1.79% Small Business Enterprise – Goods & Services (SBE-G/S) goal. Change Order No. 2 to Project No. W-944 was reviewed for application of Small Business Enterprise (SBE) measures. Change Order No. 2 increases the contract value. The goals will not apply to the Change Order work.

The project was reviewed for compliance with the 8.46% SBE-Con and 1.79% SBE-G/S goals, the Responsible Wages and Benefits, Resident's First Training and Employment and Employ Miami-Dade requirements. Resolution No. R-1001-15 requires County contracts with small business measures meet at least 85 percent of the small business measures applicable to the portion(s) of the contract work performed to date before a change order or contract amendment is considered for Board approval.

The prime, Lee Construction Group, Inc. (Lee Construction), has performed/requisitioned \$5,013,294.72 requiring the SBE-Con firm to have performed \$360,506.02 and SBE-G/S firm to have performed \$76,277.28 for compliance with Resolution R-1001-15. To date, the SBE-Con firm on the project has performed \$3,370,020.96 and the SBE-G/S firm has performed \$201,040.50 in compliance with Resolution R-1001-15.

Lee Construction is not in compliance with Responsible Wages and Benefits because it has not paid \$37,011.65 to nine (9) underpaid employees of its subcontractor Luis & Luigi Concrete, LLC. On January 6, 2023, the Office of Small Business Development (SBD) requested a transfer of \$39,843.04 (\$37,011.65 in wages plus \$2,831.39 for 7.65% employer payroll taxes) from contract proceeds to the SBD Compliance Trust Fund for distribution to the employees. Lee Construction is in compliance with workforce requirements. For additional information, please contact Alice Hidalgo-Gato, SBD Section Chief, at 305-375-3153.

c: Marisela Aranguiz, Deputy Director, WASD
Juan Curiel, Assistant Director of Utility Construction, WASD
Laura Verdaguer, 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
SBD Section Chiefs

T:\CCDi\WASD\W-944\Change Order

MIAMI-DADE COUNTY, FLORIDA

WATER AND SEWER

CHANGE ORDER TO ORIGINAL CONTRACT



CHANGE ORDER NO: 2

CONTRACT NO: W-944

DATE: 11/30/2023

PROJECT TITLE: Alexander Orr Jr. Water Treatment Plant Lime Kiln Electrical Switchgear Building

TO CONTRACTOR: Lee Construction Group Inc.

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: Change Order No. 2 increases the Contract amount by \$287,658.11 to address unforeseen conditions related to underground utility conflicts, which required construction to stop while portions of the Project were redesigned.

Monetary Justification: Contract W-944 was awarded to Lee Construction Group, Inc. (the "Contractor") to build an Electrical Switchgear Building for the Lime Kiln Plant located at the Alexander Orr Water Treatment Plant (the "Project"). The Contract was awarded by the Board of County Commissioners (the "Board") on October 2, 2018 via Resolution No. R-1022-18. The total Contract award was \$6,270,105.91, with a Contingency Allowance of \$550,451.85, and a Contract duration of 300-calendar days, with a Contingency Time Allowance of 30 days.

Time Justification: Not applicable, this is a monetary Change Order

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-----	\$6,270,105.91
COST OF CHANGES PREVIOUSLY ORDERED-----	\$262,793.74
ADJUSTED CONTRACT AMOUNT PRIOR TO THIS CHANGE-----	\$6,532,899.65
COST OF CHANGES WITH THIS DOCUMENT-----	\$287,658.11
ADJUSTED CONTRACT AMOUNT INCLUDING THIS CHANGE-----	\$6,820,557.76
PERCENT INCREASE WITH THIS CHANGE-----	4.59%
TOTAL PERCENT INCREASE TO DATE-----	8.78%
TIME: ORIGINAL CONTRACT / PREVIOUS CHANGES / THIS CHANGE-----	300 / 310 / 0
CONTINGENCY TIME: ORIGINAL CONTRACT / PREVIOUS CHANGES / THIS CHANGE-----	30 / 0 / 0
ADJUSTED DURATION INCLUDING THIS CHANGE-----	640

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.

Organization

Lee Construction Group Inc

Hartford Casualty Insurance Company

Accepted By:

Name

Title

Date

Luis E. Enriquez
President

Contractor

11/30/2023

Charles D. Nelson
Charles D. Nelson, Attorney-In-Fact

Surety

11/30/2023

Title

Name

Date

Approved By: County Attorney
(for legal sufficiency)

Sarah Esquivel Davis

12/1/23

Approved By: County Mayor

Roy Coley

12/4/23

Attested By: Clerk of the Board

Juan Fernandez-Barquim,
Clerk of the Court and Comptroller

12-4-23

Attested by: *Olga Valverde*
Deputy Clerk: Olga Valverde - e18183



Monetary Justification: (Continued)

At the beginning of the Project, the Miami-Dade Water and Sewer Department ("WASD") approved a 30-day non-compensable time extension from the Contract's Contingency Time Allowance that extended the Final Completion date from May 18, 2020 to June 17, 2020.

In March 2021, WASD approved Change Order No. 1 for \$262,793.74 and a 310-day time extension due to electrical enhancements that were needed to improve safety and the life span of the equipment. Change Order No. 1 was ratified by the Board in May 2021 and: (1) increased the total Contract amount to \$6,532,899.65, which represented a 4.19% total cost increase, and (2) extended the Final Completion date to April 23, 2021.

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Conclusion

Change Order No. 2 to the Contract increases the total Contract Amount by \$287,658.11 and brings the total Contract award up from \$6,532,899.65 to \$6,820,557.76.

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.

POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD

BOND, T-11

One Hartford Plaza

Hartford, Connecticut 06155

Bond.Claims@thehartford.com

call: 888-266-3488 or fax: 860-757-5835

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Name: NIELSON HOOVER & COMPANY

Agency Code: 21-229752

- ☒ Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
☒ Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
☒ Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
☐ Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
☐ Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
☐ Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
☐ Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
☐ Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, up to the amount of Unlimited:

D. A. Belis, Tracey C. Brown-Boone, Natalie C. Demers, David R. Hoover, Stephanie McCarthy, Jarrett Merlucci, Laura D. Mosholder, John R. Neu, Charles D. Nielson, Charles J. Nielson, Joseph Penichet Nielson, Daniel Frank Oaks, Brett Rosenhaus, Kevin Wojtowicz of MIAMI LAKES, Florida

their true and lawful Attorney(s)-In-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments 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, and as authorized by a Resolution of the Board of Directors of the Companies on May 23, 2016 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



Shelby Wiggins

Shelby Wiggins, Assistant Secretary

Joelle L. LaPierre

Joelle L. LaPierre, Assistant Vice President

STATE OF FLORIDA

COUNTY OF SEMINOLE

ss. Lake Mary

On this 20th day of May, 2021, before me personally came Joelle LaPierre, to me known, who being by me duly sworn, did depose and say: that (s)he resides in Seminole County, State of Florida; that (s)he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that (s)he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that (s)he signed his/her name thereto by like authority.



Jessica Ciccone

Jessica Ciccone
My Commission HH 122280
Expires June 20, 2025

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of November 30, 2023.

Signed and sealed in Lake Mary, Florida.



Keith D. Dozois

Keith D. Dozois, Assistant Vice President



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: January 17, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(O)(1)

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)(1)
1-17-24

RESOLUTION NO. R-34-24

RESOLUTION RATIFYING ACTION BY THE 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. 2 TO CONTRACT W-944 BETWEEN MIAMI-DADE COUNTY AND LEE CONSTRUCTION GROUP INC. FOR AN INCREASE TO THE CONTRACT AMOUNT BY \$287,658.11 FOR THE ALEXANDER ORR JR. WATER TREATMENT PLANT LIME KILN ELECTRICAL SWITCHGEAR BUILDING

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, approval of Change Order No. 2 to Contract W-944 between Miami-Dade County and Lee Construction Group Inc. for an increase to the contract amount of \$287,658.11 for the Alexander Orr Jr. Water Treatment Plant Lime Kiln Electrical Switchgear Building. A copy of Change Order No. 2 is attached to the accompanying memorandum as Exhibit C. The original contract documents are kept on file with, and are available upon request from, the Intergovernmental Affairs Division of the Miami-Dade Water and Sewer Department.

The foregoing resolution was offered by Commissioner **Sen. René Garcia**, who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	aye		
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Eileen Higgins	aye
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of January, 2024. 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

JUAN FERNANDEZ BARQUIN, CLERK



By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

SED

Sarah E. Davis