

Agenda Item #: **3D-1**

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: March 13, 2007

☒ Consent ☐ Regular

☐ Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: COUNTY ATTORNEY

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) **Approve** Amendment No. 10 to the Contract (R96-0714D, as amended by R98-0392D, R99-0493D, R2000-0402, R2001-0419, R2002-0371, R2003-0410, R2004-0499; R2005-0591; R2006-0442) with Denise M. Nieman, County Attorney; and
- B) **Approve** a 7% salary increase for the period March 26, 2007 through March 25, 2008.

Summary: In accordance with the terms and conditions of the original contract, this Amendment provides for the County Attorney's services through March 25, 2012. A 7% increase would raise the County Attorney's salary from \$181,912.50 to \$194,646.40. Such an increase is consistent with the County's treatment of non-contract County employees.
Countywide (DN)

Background and Policy Issues: Paragraph 1 of the Employment Contract with the County Attorney provides that the employment of the County Attorney automatically renews and continues for additional one-year periods unless earlier terminated pursuant to the terms of the Contract. With the automatic renewal, the Contract was extended to March 25, 2012. Paragraph 1 further provides, in relevant part, that "[a]ny salary increase . . . for any renewal hereof shall be negotiated between the parties in advance of the beginning of each subsequent yearly period." The salary increase is consistent with the County's treatment of non-contract County employees and in line with other counties of similar size.

(Continued on Page 3.)

Attachments:

1. Amendment
2. Salary Comparison Survey
3. Nomination for the Dorothy H. Wilken Leadership Award

Recommended by: _____

Department Director

Date

1/30/07

Approved by: _____

N/A

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures					
Operating Costs	<u>6,367</u>	<u>12,734</u>	<u>12,734</u>	<u>12,734</u>	<u>12,734</u>
External Revenues					
Program Inc. (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	<u>6,367</u>	<u>12,734</u>	<u>12,734</u>	<u>12,734</u>	<u>12,734</u>
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes X No

Budget Account No.: Fund 0001 Department 280 Unit 2100 Object 1201

Reporting Category_____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Elizabeth Blaser
OFMB 1/31/07

Jim J. Perle 2/2/07
Contract Development and Control

B. Legal Sufficiency:

Maureen Cullen
Chief Assistant County Attorney

This amendment complies with our review requirements.

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

Background and Policy Issues: (Continued from Page 1.)

The Office Management Plan that was adopted in 1996 continues to provide the framework and set the tone for the operation of the County Attorney's Office, one of the largest law firms in the County. Your law firm has demonstrated time and again its ability to effectively and efficiently represent the County in a variety of matters. The County Attorney's Office is highly respected by the judiciary and legal community.

This past year, the County Attorney's Office continued to be extraordinarily active on a wide variety of cases and issues. The Scripps agreements were negotiated, finalized, and approved, and a number of Water Utility disputes were resolved, either through settlement or court victories. The Fire-Rescue dispatch litigation, and annexation and Sector Plan issues are ongoing. We also have an increased workload due to changes in the Value Adjustment Board's handling of petitions, and our more extensive involvement in matters pertaining to the Code of Ethics.

The reports that were submitted each quarter this past year provide further detail of the work and accomplishments of the County Attorney's Office. For the most part, we have handled all work in-house, and in the instances where outside expertise was required, we partnered with the private firm, remaining directly involved in representing the County. In addition to juggling the high pressure and profile matters and caseload, attorneys and support staff found time to serve our community through mentor programs and volunteer work for various charities and not-for-profits.

Attached is a nomination for the Dorothy H. Wilken Leadership Award that my staff submitted on my behalf, unbeknownst to me. As you can imagine, I was deeply touched, and I believe it reflects a working environment that is conducive to productivity, effectiveness, and collegiality.

On November 6, 2006, I celebrated my 20th year with the County Attorney's Office, and am wrapping up my eleventh year as the County Attorney. I greatly appreciate the opportunity to continue to serve you.

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**Amendment No. 10 to Contract Between
Palm Beach County
and
Denise M. Nieman, County Attorney**

This Amendment No. 10, dated March 13, 2007, to the Contract dated June 4, 1996 (R96-0714D as amended on March 17, 1998, by R98-0392D; March 16, 1999 by R99-0493D; March 21, 2000 by R2000-0402; March 13, 2001 by R2001-0419; March 12, 2002 by R2002-0371; March 11, 2003 by R2003-0410; March 16, 2004 by R2004-0499; March 15, 2005 by R2005-0591; and March 14, 2006 by R2006-0442) between **Palm Beach County**, a political subdivision of the State of Florida (hereinafter "County"), and **Denise M. Nieman, Esq.** (hereinafter "County Attorney"), an individual residing at 111 E. Tarpon Lane, Jupiter, Florida 33477;

WITNESSETH:

WHEREAS, the parties hereto have previously entered into an employment contract dated June 4, 1996 (R96-0714D as amended on March 17, 1998, by R98-0392D; March 16, 1999 by R99-0493D; March 21, 2000 by R2000-0402; March 13, 2001 by R2001-0419; March 12, 2002 by R2002-0371; March 11, 2003 by R2003-0410; March 16, 2004 by R2004-0499; March 15, 2005 by R2005-0591; and March 14, 2006 by R2006-0442, the "Contract"); and

WHEREAS, the Contract has automatically extended for an additional year; and

WHEREAS, the parties hereto desire to amend the Contract to reflect these changes.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and for other such good and valuable consideration, the receipt of which the parties hereto expressly acknowledge, the parties agree as follows:

1. Section 1 of the Contract is hereby amended to read:

The County shall employ Denise M. Nieman as the Palm Beach County Attorney pursuant to Section 4.3 of the Palm Beach County Charter for a five (5) year term commencing March 26, 2007. The County may employ Denise M. Nieman, as of July 1, 2004, as the Palm Beach County Prosecuting Attorney pursuant to Section 125.69(2), Florida Statutes, as may be amended from time to time. The County shall pay the County Attorney an annual salary of \$194,646.40, and a continuing annual contribution on

behalf of the County Attorney into the NACO Deferred Compensation Program in the maximum amount allowable by law. Any salary increase for subsequent years shall be negotiable between the parties in advance of the beginning of each year of this Contract. In addition, the County shall pay the County Attorney a car allowance of five hundred dollars (\$500) per month. This contract shall continue on the same terms and conditions as provided for herein for additional one (1) year periods unless terminated in accordance with Paragraph 10 or 11 herein.

2. All other terms and conditions of the Contract shall remain in full force and effect. This Amendment shall be effective upon execution hereof by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal on the day set forth above.

ATTEST:
Sharon R. Bock, Clerk & Comptroller

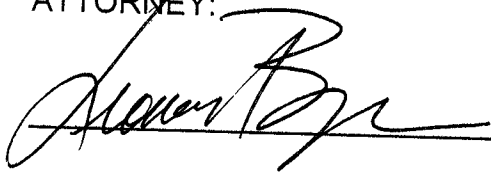
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS


By: _____

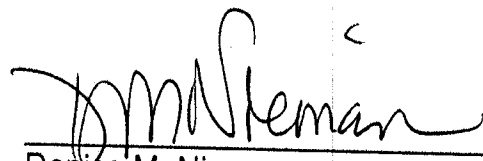
Addie L. Greene, Chairperson

WITNESSES FOR COUNTY
ATTORNEY:

COUNTY ATTORNEY

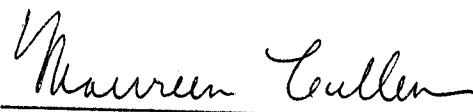






Denise M. Nieman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 

Chief Assistant County Attorney

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COUNTY ATTORNEY SALARY SURVEY - JANUARY 2007

<u>ORGANIZATION</u>	<u>SALARY</u>	<u>DEFERRED COMP</u>	<u>CAR ALLOWANCE</u>	<u>BONUS</u>	<u>DATE OF HIRE</u>	<u># OF EMPLOYEES SUPERVISED</u>
MIAMI-DADE COUNTY	\$282,253	\$1,500 annual contribution to a 401(a) Supplemental Retirement Account	\$250.00 Bi-Weekly	\$5,645.06 (2% of base salary) Longevity Bonus \$10,000 Executive Bonus	08/11/75	159
BROWARD COUNTY	\$228,900	\$15,500 Annually	\$600 Monthly	\$5,000.00	05/31/05	73
HILLSBOROUGH COUNTY	\$196,102	\$12,942.76 (6.6% of base salary)	\$295 Monthly	N/A	08/16/04	86
ORANGE COUNTY	\$195,915	\$15,500 Annually	N/A	N/A	10/01/02	48
PINELLAS COUNTY	\$193,015	\$20,000	\$450 Monthly	N/A	05/12/87	Approx. 50
PALM BEACH COUNTY	\$181,913	\$15,000 Annually	\$500 Monthly	N/A	11/06/86	59
PALM BEACH COUNTY SCHOOL BOARD	*\$175,000	\$12,000 Annually	\$500 Monthly	N/A	11/04/05	22
SOUTH FLORIDA WATER MANAGEMENT	\$171,309	5% of gross salary	N/A	N/A	08/21/89	47
CITY OF WEST PALM BEACH	\$143,368	**N/A	\$500 Monthly	\$420 Monthly Management Incentive	09/16/96	20

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* error in last year's amount reported by School Board

** error on last year's report

G:\Jo\Cnty Attorney 2007 Sal Surv.doc
01/19/07

**NOMINATION FORM
DOROTHY H. WILKEN OUTSTANDING LEADERSHIP
AWARD**

ELIGIBILITY

Individuals eligible for this award lead businesses, agencies or organizations based in Palm Beach County.

Nominations must be received by September 15, 2006.

SECTION 1. CONTACT INFORMATION, PERSON MAKING THE NOMINATION

Name of nominator	Tammy Fields		
Address	301 N. Olive Avenue, Suite 601, West Palm Beach, FL 33401		
Daytime phone number	(561) 355-2592	Fax	(561) 355-4398
E-mail	tfields@co.palm-beach.fl.us		

SECTION 2. NOMINEE INFORMATION

Name of nominee (last, first, middle)	Nieman, Denise M.		
Position/Title	County Attorney		
Business/Organization/Agency	Palm Beach County Attorney's Office		
Business address	301 N. Olive Avenue, Suite 601		
City, State, Zip	West Palm Beach, FL 33401		
Business phone	(561) 355-2225	Business fax	(561) 355-4398
Business e-mail	dnieman@co.palm-beach.fl.us		
Length of time with business/organization/agency	20 years		
Length of time as resident of Palm Beach County	20 years		

SECTION 3. EDUCATION

Briefly describe the nominee's educational background. Include relevant career, specialized or continuing education certifications, college and advanced degrees.

Clayton College of Natural Health, Doctorate in Natural Health, 2006
 Nova University Center for the Study of Law, Juris Doctorate, 1986
 Florida Atlantic University, B.A. in Criminal Justice, 1982

Broward Community College, A.A. in Business Administration, 1979
Numerous Continuing Legal Education Classes, many as speaker

SECTION 4. BUSINESS, PROFESSIONAL AND COMMUNITY AFFILIATIONS

The Florida Bar

Government Lawyer Section, Circuit Representative
City, County and Local Government Section
Entertainment, Arts and Sports Law Section

Florida Association of County Attorneys

Secretary, 1996-1997

Vice President, 1998-1999

President, 1999-2000

Member, Board of Directors, 1996-Present

Palm Beach County Bar Association

Judicial Relations Committee

Quality of Life & Stress Management Com., 2003-present, Chair 2003-2006

Florida Guild of Catholic Lawyers

Judicial Nominating Commission, 2006-2010

F. Malcolm Cunningham, Sr. Bar Association

SunFest, Inc., a not-for-profit corporation

Board of Directors, 2003-present

Coconut Ball Committee

By-laws Task Force

SunFest 365 Task Force

Site Decorations Task Force

Women of Tomorrow Mentor and Scholarship program, 2003-2006

Legal Aid Society

Co-chair, 2004 Pro Bono Recognition Night

Town of Jupiter Charter Review Committee, 2003

Town of Jupiter Beach Committee, 2002-present, Chair 2004-2006

SECTION 5. LEADERSHIP CHARACTERISTICS

Please answer at least three of the following five questions to describe how the nominee has created a work environment where employees thrive and truly enjoy working. Explain why this environment would be an inspiration or role model to other organizations. Please include the organization's vision, mission and values, if available. (Total description should be 1,000 words or less.)

1. Describe the culture of the leader's organization. (Please include established vision, mission and values, if available.)

Denise was appointed Acting County Attorney in February of 1996 to replace the former County Attorney. A testament to her organizational strengths, she drafted the first Office Management Plan, which addressed such critical elements to a government law office as litigation, prevention, minority and women participation, client relations, staff and public relations. When she presented this plan to the Board of County Commissioners, they unanimously decided the search for a new County Attorney was completed, and Denise was awarded the job.

The culture Denise has created in this office includes respect, hard work, confidence, competence, camaraderie, flexibility and service. Denise approaches all employees with respect and the respect is returned. She learned the job in the trenches as an Assistant County Attorney for ten years before her appointment as County Attorney. She knows the strengths of her employees and makes assignments accordingly. She has confidence in her attorneys to make the tough calls in sometimes highly politicized situations, but she never shirks from the ultimate responsibility she has as the County Attorney. Denise allows everyone to expand their competence through experience and continuing education.

The camaraderie in this office is exemplary. Unfortunately, in recent years, many employees and their families have experienced some very tragic and difficult situations. Other employees are quick to donate time, prepare food and lend moral support. This camaraderie is enhanced by regular employee incentive events throughout the year that allow employees to interact in fun ways. Denise has also extended flexibility to her employees, especially when they are faced with difficult situations. She will allow accommodations to schedules when needed. This flexibility does not lessen her expectations of high standards, but employees are very willing to meet these high standards due to their overall satisfaction with the office atmosphere.

Outstanding service to the Board of County Commissioner is the ultimate goal of the office, and it is delivered on a daily basis. Denise has been recognized by the Board for her outstanding services by being the longest serving County Attorney with unanimous support year after year at contract renewal. Denise never fails to thank her staff for making this possible and hosts a staff appreciation lunch each year.

2. Who participated in the creation of the culture?

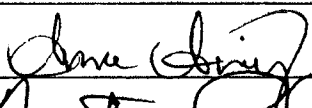
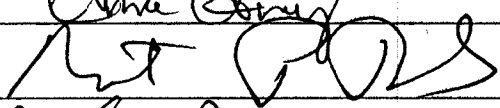

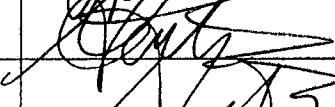
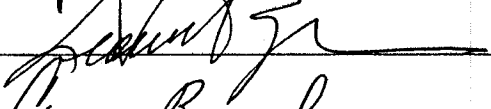
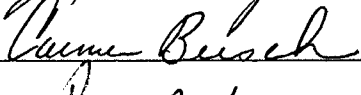
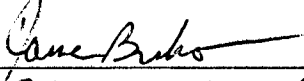
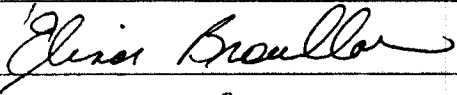
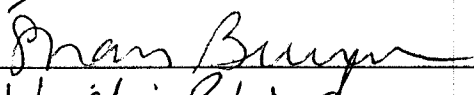
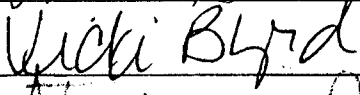
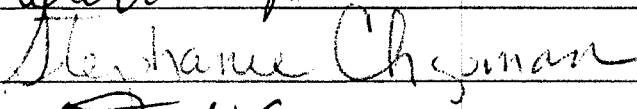
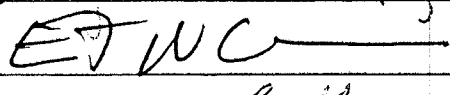
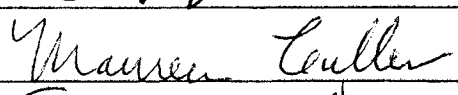
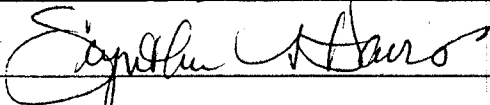
The entire office has been allowed to participate in the creation of the culture. Denise welcomes input and truly practices an open-door policy. She sets examples by her own actions.

3. Please provide examples of the organization's culture in action.



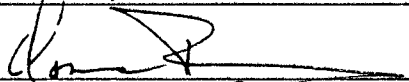
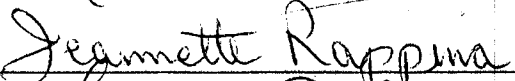
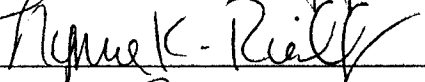
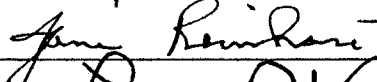
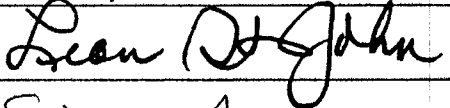

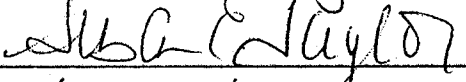

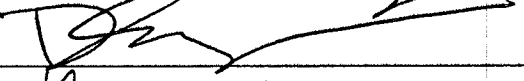
The County Attorney's Office has had to handle some complex and very public issues during Denise's tenure. The 2000 election was certainly a prime example. Many attorneys devoted long hours to sorting out the various legal issues, but Denise spent the longest hours under intense public scrutiny. Denise delivered unbiased decisions. In recognition, she was awarded The Florida Bar's Claude Pepper Outstanding Government Lawyer Award and the Florida Association of County Attorney's Ethics in Government Award.

More recently, the office has been involved in the negotiation and litigation surrounding Scripps and other biotechnical businesses. Again, the office came together to professionally handle the many complicated issues while still maintaining the high level of performance in other areas.

The entire staff of the County Attorney's Office highly recommends Denise Nieman for the Dorothy H. Wilken Outstanding Leadership Award as evidenced by their signature below.

<u>PRINT NAME</u>	<u>SIGNATURE</u>
ANNE AIREY	
ROBERT BANKS	
LAURA BEEBE	
GENTRY BENJAMIN	
LENNY BERGER	
CARMEN BERSCH	
JIM BRAKO	
ELINOR BROULLON	
SHARON BURROWS	
VICKI BYRD	
STEPHANIE CHAPMAN	
ERNIE CHASSEUR	
MAUREEN CULLEN	
SCYNTHIA DAVIS	

MARLENE EVERITT	Marlene Everitt
HOWARD FALCON	H. Falcon
TAMMY FIELDS	Tammy Fields
DENISE FISHEL	Denise Fishel
MELANIE FITZPATRICK	Melanie Fitzpatrick
SHANNON FOX	Shannon Fox
ANGELA GAMBLE	Angela Gamble
PAMELA ^{Eidelberg} GILTMAN	Pamela Eidelberg
JANET GLASPIE	Janet Glaspie
BILL GOM	William Gom
GINGER GREENE	Ginger Greene
ANNE HELFANT	Anne Helfant
LEAH HERMANN	Leah H. Hermann
SHERRY INGRAM	Sherry C. Ingram
MARY JAMES	Mary E. James
JOYCE JOHNSTON	Joyce Johnston
MIKE JONES	Mike Jones
PAUL KING	Paul King
SARA LINSEY	Sara Lindsey
ANDREW McMAHON	Andrew McMahon
JIM MIZE	James C. Mize
RICHARD MORRELLI	Richard Morrelli
PHIL MUGAVERO	Philip Mugavero
LINDA NEWTON-LEWIS	Linda X. Lewis
DAVID OTTEY	David Ottey

ANDREW PELINO	
AMY PETRICK	
DONNA RANEY	
JEANNETTE RAPPINA	
LYNNE REILLY	
JANE REINHART	
LEON ST. JOHN	
EILEEN TAYLOR	
SUSAN TAYLOR	
LIL WALESKY	
DAWN WYNN	
LORETTA YAKOVAKIS	