

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>\$39,328</u>	_____	_____	_____	_____
External Revenues	<u>(\$23,597)</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$15,731</u>	_____	_____	_____	_____
# ADDITIONAL FTE	<u>0</u>	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes ___ No X

Budget Account No.: Fund 1482 Dept. 310 Unit 1403 Object Various

*Any unused funds will carry forward to future years

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

There is sufficient budget available in the Department's approved FY16 budget to meet the match requirements.

C. Departmental Fiscal Review: _____

This is a continuation of an existing FTE. The term of the Amendment is from February 4, 2016 to September 30, 2016.

III. REVIEW COMMENTS

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

[Signature] 2/1/16
 OFMB/Budget 2/1/16

[Signature] 2/3/16
 Contract Development and Control 2-3-16

B. Legal Sufficiency:

Anne Delgado 2/4/16
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

Background and Justification:

The support of the FMBG has grown along several lines, one of which is the funding of personnel to support the efforts of the FMBG and those of the Garden. The FMBG have agreed to continue their support for salaries and fringe benefits for this County position through annual funding. This type of support started in FY96 and continued into FY15. This funding is renewable annually at the discretion of the FMBG and the Palm Beach County Board of County Commissioners by written amendment entered into by the County and FMBG.

THIRD AMENDMENT TO AGREEMENT BETWEEN PALM BEACH COUNTY
AND FRIENDS OF THE MOUNTS BOTANICAL GARDEN, INC.
FOR FUNDING OF A GARDENER POSTION

This Third Amendment, is made and entered into the ____ day of _____, 2016, by and between Palm Beach County, a political subdivision of the State of Florida (hereinafter referred to as "County"), and Friends of the Mounts Botanical Garden, Inc., a Florida Corporation, not-for-profit (hereinafter referred to as "Friends").

WITNESSETH

WHEREAS, on February 5, 2013, County entered into an agreement (R-2013-0201) with the Friends, which was later amended on February 4, 2014 (R2014-0185) and January 13, 2015 (R2015-0107), herein referred collectively as "Agreement", whereby the Friends and County agreed to jointly fund a gardener position at The Mounts Botanical Garden of Palm Beach County ("Garden"), with the position being filled by an individual deemed a County employee; and

WHEREAS, Friends and County desire to continue to jointly fund a gardener position at the Garden; and

WHEREAS, County and Friends desire to extend the term of the Agreement an additional year; and

WHEREAS, entering into this Amendment serves a public purpose.

NOW, THEREFORE, in consideration of the mutual covenants and agreements expressed herein, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.

2. Section 2 of the Agreement shall be amended to state: Friends shall provide County funding for one gardener position in an amount not to exceed Thirteen Thousand Nine Hundred and Ninety Five Dollars (\$13,995) plus Nine Thousand Six Hundred and Two Dollars (\$9,602) for fringe benefits for a total amount not to exceed Twenty Three Thousand Five Hundred and Ninety Seven Dollars (\$23,597), or Sixty (60%) percent for a gardener at the Garden, whichever is greater. County shall fund an amount not to exceed Nine Thousand Three Hundred and Thirty Dollars (\$9,330) plus Six Thousand Four Hundred and One Dollars (\$6,401) for fringe benefits for a total amount not to exceed Fifteen Thousand Seven Hundred and Thirty One Dollars (\$15,731), or forty (40%) percent for a gardener at the Garden, whichever is greater. The total amount to be paid by County and the Friends for a gardener position for the period February 4, 2016 through September 30, 2016 shall be Thirty Nine Thousand Three Hundred and Twenty Eight Dollars (\$39,328).

3. Section 6 of the Agreement is amended to state: This Agreement shall commence on February 5, 2013 and terminate on September 30, 2016, with an option to renew by both parties.

4. Section 18 is amended to add the following

Friends has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if the Friends do not have a written non-discrimination policy or one that conforms to the County's policy, it has acknowledged through a signed statement provided to

county that Friends will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

5. All provisions of said Agreement, as amended, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

Remainder of page intentionally left blank

IN WITNESS WHEREOF, County and Friends hereby set their hands and seals on the date first written above.

SHARON R. BOCK, CLERK &
COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Mary Lou Berger, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
County Attorney

By: Ronald W. Kici
Department Director

FRIENDS OF THE MOUNTS
BOTANICAL GARDEN, INC.

Eleanor Bravler
Witness

By: My Kaseo
President

Ronald W. Kici
Witness

Date: 12/1/16

R 2013 0201

AGREEMENT BETWEEN PALM BEACH COUNTY AND FRIENDS OF THE MOUNTS
BOTANICAL GARDEN, INC. FOR FUNDING OF A GARDENER POSTION

This Agreement, is made and entered into the ____ day of FEB 05 2013, 2013, by and between Palm Beach County, a political subdivision of the State of Florida (hereinafter referred to as "County"), and Friends of the Mounts Botanical Garden, Inc., a Florida Corporation, not-for-profit (hereinafter referred to as "Friends").

WITNESSETH

WHEREAS, County owns and operates the Mounts Botanical Garden (hereinafter referred to as "Garden"); and

WHEREAS, on January 7, 1992, County entered into an agreement with the Friends (hereinafter referred to as "1992 Agreement") whereby the Friends agreed to cooperate and assist in the operation and management of the Garden; and

WHEREAS, the 1992 Agreement provides that the Friends may provide funds to County to supplement the Garden's staff with additional employees, who will be hired and managed in accordance with County personnel rules with funding provided by Friends; and

WHEREAS, Friends desires at this time to fund a gardener position at the County, with the position being filled by an individual deemed a County employee; and

WHEREAS, County desires to receive and use such funds for a gardener position at the Garden; and

WHEREAS, the acceptance and use of such funds will enhance the operation of the Garden and promotes a public purpose.

NOW, THEREFORE, in consideration of the mutual covenants and agreements expressed herein, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. Friends shall provide County funding for 60% of the costs of one gardener position in an amount not to exceed Seventeen Thousand Nine Hundred and Sixty Nine Dollars (\$17,969) plus Nine Thousand Three Hundred and Thirty Six Dollars (\$9,336) for fringe benefits for a total amount not to exceed Twenty Seven Thousand Three Hundred and Five Dollars (\$27,305). County shall fund 40% of the costs of one gardener position in an amount not to exceed Eleven Thousand Nine Hundred and Seventy Nine Dollars (\$11,979) plus Six Thousand Two Hundred and Twenty Five Dollars (\$6,225) for fringe benefits for a total amount not to exceed Eighteen Thousand Two Hundred and Four Dollars (\$18,204). The total amount to be paid by County and the Friends for the gardener position shall be Forty Five Thousand Five Hundred and Nine Dollars (\$45,509).
3. The Friends shall pay the County the amount stated above by equal monthly installments due and payable on the first day of each month, beginning on the date this Agreement is entered into. The Friends shall make all payments to County without notice from County.
4. County shall employ one (1) full-time county gardener position at the Garden with the funding mentioned above, to assist with increased Garden maintenance.

5. County shall continue to assume sole and exclusive responsibility for the hiring, termination, performance appraisal, and payment of wages as described above to the individual filling the position of the gardener at the Garden. The gardener shall be supervised by the Garden Curator and Director of Cooperative Extension Department, and shall be managed in accordance with County personnel rules.

6. The term of this Agreement shall commence on February 5, 2013 and terminate on February 4, 2014.

7. The County's performance and obligation to pay under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners.

8. This Agreement may be renewed upon mutual written agreement of the parties.

9. Nothing herein shall be construed to require County to continue the position provided for, should Friends cease funding of said position.

10. County agrees that the funding provided by Friends shall be used solely for those purposes stated herein unless written approval by the Friends allows otherwise.

11. Friends may terminate this Agreement for any breach thereof by County provided Friends gives thirty (30) days written notice to County. County may terminate this Agreement with or without cause provided County gives sixty (60) days written notice to Friends. In the event of a termination, County shall remit to Friends all unused funding, without interest, within thirty (30) days of the effective date of termination.

12. This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this Agreement shall be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

13. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Friends, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

14. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

15. The County and Friends agree that this Agreement including the terms of the 1992 Agreement sets for the entire agreement between the parties and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement or the 1992 Agreement may be added to, modified, superseded or otherwise altered, except by written instructed executed by the parties hereto.

16. All notices required hereunder shall be in writing and shall be addressed to the following representatives of the parties:

For the Grantors: President, Friends of the Mounts Botanical Garden, Inc.
559 N. Military Trail
West Palm Beach, FL 33415

For the County: Director, Cooperative Extension Service
559 N. Military Trail
West Palm Beach, FL 33415

17. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Contract, including but not limited to any citizen or employees of the County or the Friends.

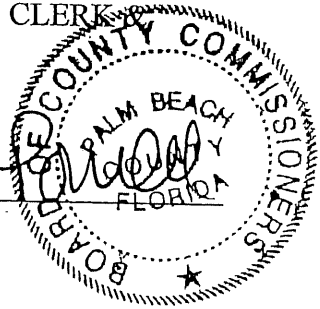
18. Friends shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Agreement. The County shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Friend's place of business.

The remainder of this page is intentionally left blank.

IN WITNESS WHEREOF, County and Friends hereby set their hands and seals on the date first written above.

SHARON R. BOCK, CLERK &
COMPTROLLER

By: *Sharon R. Bock*
Deputy Clerk



R 2013 0201

FEB 05 2013
PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY
COMMISSIONERS

By: *Steven L. Abrams*
Steven L. Abrams, ~~Chairman~~ Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: *Anne Delgent*
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: *Audrey R. Norman*
Department Director

FRIENDS OF THE MOUNTS
BOTANICAL GARDEN, INC.

R. Allent
Witness

By: *May P...*
President

Audrey R. Norman
Witness

Date: *Jan. 11, 2013*

EXHIBIT A

MOUNTS BOTANICAL GARDEN AGREEMENT

THIS AGREEMENT is made and entered into this

JAN 7 1992

, by and between Palm Beach County, a political subdivision of the State of Florida (hereinafter referred to as "COUNTY"), and The Friends of the Mounts Botanical Garden, Inc., a Florida corporation not-for-profit (hereinafter referred to as "CORPORATION").

W I T N E S S E T H

WHEREAS, The COUNTY has established and operates the Mounts Botanical Garden (hereinafter referred to as "Garden"); and,

WHEREAS, the CORPORATION was established as a private citizen support group to assist in the operation and maintenance of the Garden, and

WHEREAS, the COUNTY and the CORPORATION have cooperated in the operation and management of the Garden since 1983; and,

WHEREAS, the parties recognize the necessity to memorialize their understanding and roles each plays in the operation and management of the Garden.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

I. Management of the Garden

A. The Garden as it currently exists makes up the campus of the Agriculture Department's headquarters. A master plan has been prepared with the final document to be delivered in December 1991. As the Garden develops and expands according to the master plan, as it may be revised from time to time, it is the intent of the parties that this Agreement shall control the participation of the CORPORATION in such development and expansion.

B. The parties acknowledge that it is the intent of the COUNTY, subject to the availability of funding, to permanently fund and operate the Garden for the benefit of the citizens of Palm Beach County. The parties further acknowledge that it is the intent of the CORPORATION to provide assistance and guidance to the COUNTY on a permanent basis in the operation of the Garden, and to continue to provide funding for the operation of the Garden which the COUNTY does not have to provide on a continuing basis.

C. The Board of Directors (hereinafter referred to as "DIRECTORS") of the CORPORATION shall be selected by the CORPORATION according to the by-laws of the CORPORATION. The Garden Curator shall serve as an ex officio and nonvoting member of the DIRECTORS.

1. The DIRECTORS shall be allowed to provide assistance in the implementation of policies and guidelines for the operation of the Garden and they may appoint an Executive Committee in order to address urgent matters on a timely basis.
2. The DIRECTORS shall be allowed to provide assistance in the development of Garden programs, including education programs, the development and implementation of a collection policy; the publicity, planning and implementation of special events; and all other requirements necessary to operate the Garden as an accreditable public garden facility.
3. The DIRECTORS shall be authorized to purchase personal property for the Garden, including plants for the collection. All such property purchased with funds of the CORPORATION shall become the property of the COUNTY.

4. The DIRECTORS shall be responsible for assisting with the coordination of the use of volunteers and docents at the Garden, with such use to be under the supervision of the Garden Curator.

D. The Garden Curator, as an employee of and funded by the COUNTY and reporting directly to the Director of the Agriculture Department, shall manage the operation of the Garden pursuant to the guidelines and policies established by the Agriculture Department Director and in accordance with all applicable COUNTY policies. The Garden Curator shall be charged with establishing standards for operating the Garden in accordance with the professional standards of the American Association of Botanical Gardens and Arboreta, so that the Garden is operated as an accreditable public garden facility.

E. All employees shall be supervised by the Garden Curator who shall comply with all COUNTY personnel rules in supervising and administering employees of the Garden. The CORPORATION, with the approval of the Director of the Agriculture Department, may provide funds to the COUNTY to supplement the Garden staff with additional employees. These employees will be hired and managed in accordance with County personnel rules and will all necessary funding from the CORPORATION.

F. The Board of County Commissioners of Palm Beach County shall have the authority to resolve any conflict between the CORPORATION and the Director of the Agriculture Department with regard to the operation of the Garden.

II. Funding and Budget

A. The CORPORATION shall share in providing funding for collections, education programs, and events. All funds raised from public or private sources by the CORPORATION shall be used in their entirety to support the Garden and its programs as stated in the CORPORATION'S bylaws. The CORPORATION shall provide funding for promotion of membership. The CORPORATION may provide funding in other areas at its discretion. The CORPORATION shall prepare an annual budget and provide the COUNTY with copies of said budget. Additionally, the CORPORATION shall provide the COUNTY with an annual independent audit of income and expenses for the Garden and the COUNTY shall have access to the books and records of the CORPORATION for inspection during normal business hours.

B. Subject to funding availability, the COUNTY shall be responsible for providing operating personnel, maintenance personnel and security for the Garden, and shall be responsible for providing and paying for all maintenance, security, and utility services for the Garden. Those services paid for by the CORPORATION shall be in addition to those paid by the COUNTY. The COUNTY shall provide such services and utilities in accordance with the recommendations of the Garden Curator, and in such a manner that the Garden shall be operated in accordance with criteria established by the American Association of Botanical Gardens and Arboreta, subject to funding availability and in accordance with the County budgeting process. The CORPORATION shall have the authority to supplement the cost of operation, maintenance and security at the request of the Garden Curator. Such costs paid for by the CORPORATION shall be in addition to those paid by the COUNTY.

C. The Garden Curator, with the advice and guidance of the DIRECTORS, shall prepare and submit to the Director of the Agriculture Department an annual operating budget request, as a part of the Department's budget, which shall be subject to the approval of the COUNTY as part of its normal budgeting process. The Garden Curator shall submit the proposed budget as required to meet the budgetary time constraints of the COUNTY. The COUNTY shall identify the funds allocated for the Garden within the Agriculture Department budget and this information will be available to the CORPORATION.

III. Use of Garden Facility

A. The Garden Curator, shall administer the use of the Garden. The CORPORATION acknowledges that the Garden shall be open to all County residents on an equal, nondiscriminatory basis.

B. All revenues generated by the use of, or programs held at, the Garden, other than those generated by the Agriculture Department's ongoing educational programs, shall be paid to the CORPORATION. The CORPORATION shall use these funds to meet the financial requirements imposed on the CORPORATION by the terms of this Agreement.

C. The DIRECTORS shall have the authority to grant concessions at the Garden during special events, including plant sales, and shall establish a policy for concessionaires and the granting of concessions, which policy shall be subject to the review of the Director of the Agriculture Department. Any revenues generated by such concessions which are paid to the CORPORATION shall be used by the CORPORATION to meet its financial responsibilities under the terms of this Agreement.

D. Should space become available, the CORPORATION shall have the exclusive right to establish and operate a garden shop in the Garden. All revenues generated by the garden shop shall be used by the CORPORATION to meet its financial responsibilities under the terms of this Agreement.

IV. Master Plan and Expansion and Development of Garden

A. The CORPORATION, with the assistance of the COUNTY, has prepared a Master Plan for the proposed expansion and development of the Garden. The parties agree that the CORPORATION shall be consulted as the Master Plan is implemented or revised, and that any proposal presented to the Board of County Commissioners shall have the opinion of the DIRECTORS attached.

V. Garden Curator

A. The Director of the Agriculture Department shall be responsible for the appointment and dismissal of the Garden Curator and shall retain supervisory responsibility in accordance with County personnel rules.

B. Should it be necessary at any time to replace the Garden Curator, the COUNTY agrees that a member of the DIRECTORS shall sit on the selection committee.

VI. Term of Agreement

A. This Agreement shall remain in effect for such time as the COUNTY owns the Garden, unless sooner terminated by mutual written agreement of the parties. Parties hereto agree that a termination shall not be effective until 60 days from the date of receipt of written notice to terminate.

B. At any time in the future should the COUNTY decide, for whatever reason, that it no longer will operate the Garden then it is agreed that the CORPORATION will have first opportunity to assume responsibility for its operation and management.

VII. Additional Provisions

A. This Agreement contains the complete agreement of the parties, and may not be amended except in writing executed by both parties.

B. The CORPORATION shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgement, lien, or any form of indebtedness. The CORPORATION further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: [Signature]
Chair

Date: JAN 7 1992

FRANK T. BAUER, CLERK
Board of County Commissioners

By: [Signature]
DEPUTY CLERK

ATTEST:

JOHN B. DUNKLE, CLERK

By: [Signature]
Deputy Clerk

[Signature]
Witness

[Signature]
Witness

THE FRIENDS OF THE MOUNTS
BOTANICAL GARDEN, INC.

By: [Signature]
President

Date: 11/20/91

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: [Signature]
County Attorney

16- 0366

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET AMENDMENT

1482 Cooperative Extension Revenue Fund

BGRV 012016*177
BGEX 012016*695

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 01/20/2016	REMAINING BALANCE
<u>REVENUES</u>								
310-1403-6694	Grant from Oth Non-Govt	23,073	23,073	23,597	0	46,670		
800-8000-8000	Transfer fr General Fund Fd 0001	35,840	35,840	15,731	0	51,571		
	Total	308,705	308,705	39,328	0	348,033		
<u>EXPENDITURES</u>								
310-1403-1201	Salaries & Wages Regular	21,934	21,934	23,325	0	45,259	9,368	35,891
310-1403-2101	Fica-Taxes	1,395	1,395	1,446	0	2,841	540	2,301
310-1403-2105	Fica Medicare	327	327	338	0	665	126	539
310-1403-2201	Retirement Contributions-Frs	1,638	1,638	1,719	0	3,357	680	2,677
310-1403-2301	Insurance-Life & Health	7,509	7,509	12,500	0	20,009	3,816	16,193
	Total	308,705	308,705	39,328	0	348,033	14,530	333,503

Signatures & Dates

By Board of County Commissioners
At Meeting of 02/09/2016

County Cooperative Extension
INITIATING DEPARTMENT/DIVISION
Administration/Budget Department Approval
OFMB Department - Posted

Ronald L Rice 22 JAN 2016
Joe [Signature] 21.1.16

Deputy Clerk to the
Board of County Commissioners

Attachment # 3

16-

0367

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET TRANSFER

0001 General Fund

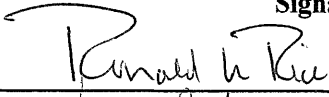
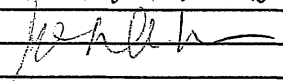
BGEX 012016*697

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 01/20/2016	REMAINING BALANCE
<u>EXPENDITURES</u>								
820-9900-9901	Contingency Reserves	20,775,190	19,748,849	0	15,731	19,733,118	0	19,733,118
820-9100-9362	Tfr to Cooperative Extension Rev Fd 1482	35,840	35,840	15,731	0	51,571	4,945	46,626
TOTALS				15,731	15,731			

Signatures & Dates

By Board of County Commissioners
At Meeting of 02/09/2016

County Cooperative Extension
INITIATING DEPARTMENT/DIVISION
Administration/Budget Department Approval
OFMB Department - Posted

 22 JAN 2016
 2/3/16

Deputy Clerk to the
Board of County Commissioners

Attachment # 4