



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2023	2024	2025	2026	2027
Capital Expenditures	\$ 90,000	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	(\$90,000)	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
<b>NET FISCAL IMPACT</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
# ADDITIONAL FTE POSITIONS (Cumulative)	-0-	-0-	-0-	-0-	-0-

Is Item Included in Current Budget? Yes  No   
 Does this item include the use of federal funds? Yes  No

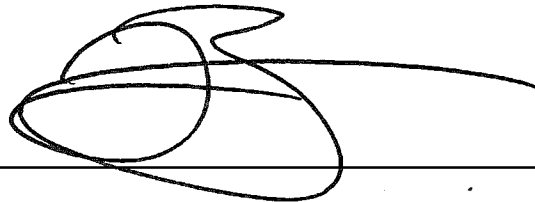
Budget Account No:  
 Fund 3500 Dept 361 Unit 1987 Object 6993/8101

**Recommended Sources of Funds/Summary of Fiscal Impact:**

Transportation Improvement Fund  
 SW 10th Avenue from South Terminus to Dr. Martin Luther King Jr. Blvd

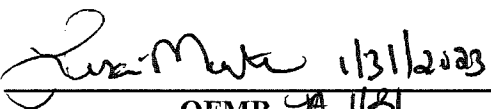
Staff Charges/Roadway CI Services	\$ 90,000.00
Interlocal Agreement City of South Bay	<\$ 90,000.00>
Fiscal Impact	\$ 0.00

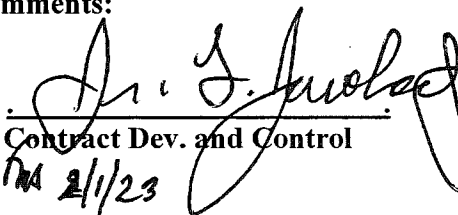
**C. Departmental Fiscal Review:**



**III. REVIEW COMMENTS**

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

*for review of 02/13/23 1/31/23*  
  
 OFMB A 1/31

  
 Contract Dev. and Control  
 2/1/23

**B. Approved as to Form and Legal Sufficiency:**

  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

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

PROJECT LOCATION

SW 10th Avenue from the south terminus to Dr. Martin Luther King Jr. Boulevard

Project No. 2022602



LOCATION MAP

**INTERLOCAL AGREEMENT  
BY AND BETWEEN PALM BEACH COUNTY  
AND THE CITY OF SOUTH BAY FOR CONSTRUCTION INSPECTION SERVICES  
FOR SW 10TH AVENUE FROM THE SOUTH TERMINUS  
TO DR. MARTIN LUTHER KING JR. BOULEVARD  
PROJECT #2022602**

This INTERLOCAL AGREEMENT for Construction Inspection (CI) services for SW 10th Avenue from the south terminus to Dr. Martin Luther King Jr. Boulevard is made as of \_\_\_\_\_ (AGREEMENT), by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners (COUNTY) and the City of South Bay, a municipal corporation of the State of Florida (CITY) (individually Party and collectively Parties).

**W I T N E S S E T H:**

**WHEREAS**, Section 163.01, Florida Statutes allows governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, the CITY has identified a need to provide certain improvements to SW 10th Avenue from its south terminus to Dr. Martin Luther King Jr. Boulevard (PROJECT); and

**WHEREAS**, the PROJECT is within CITY owned and maintained roadway rights-of-way; and

**WHEREAS**, the CITY has produced or caused to be produced plans and specifications for the PROJECT; and

**WHEREAS**, the CITY desires to bid the PROJECT and procure the services of a construction firm (CONTRACTOR); and

**WHEREAS**, the CITY desires the COUNTY to provide the CI services for the PROJECT; and

**WHEREAS**, the CITY has entered into a grant agreement (GRANT AGREEMENT), as referred to herein, with the Florida Department of Transportation (FDOT) to receive a federal grant administered through FDOT for construction and inspection of the PROJECT; and

**WHEREAS**, the CITY will reimburse the COUNTY for providing CI services for the PROJECT;  
and

**NOW, THEREFORE**, for and in consideration of the mutual covenants contained herein, the Parties agree as follows:

**Section 1 - Recitals** - The above recitals are true and correct and are incorporated herein.

**Section 2 - Scope of PROJECT**

2.1 The CITY is reconstructing approximately 1,320 feet of SW 10th Avenue from its south terminus to Dr. Martin Luther King Jr. Boulevard per the approved design section in the GRANT AGREEMENT, as referred to herein.

2.2 The time limit for the completion of CI services under this AGREEMENT (TIME) shall be as stated in Section 3.2.1 of this AGREEMENT. Unless CITY notifies the COUNTY otherwise, the date on which TIME begins shall be the date stated in the CITY's Notice to Proceed to its CONTRACTOR, which Notice CITY shall promptly provide to COUNTY.

2.3 Costs listed herein are estimates only. Actual reimbursement from the CITY to the COUNTY shall be for actual costs per Section 3.

2.4 Optional Services to be provided by the COUNTY to the CITY upon written request of the CITY are:

- 2.4.1 Testing Lab Services
- 2.4.2 Additional TIME

**Section 3 – Parties Commitments and Duties**

**3.1 CITY Commitments and Duties.** Upon the effective date of the AGREEMENT:

3.1.1 The CITY shall reimburse the COUNTY for all costs attributable to the CI services for the PROJECT, which costs are estimated to be \$90,000. Any costs exceeding this amount shall be paid directly by the CITY to the COUNTY. The CITY agrees to remit payment within thirty (30) days of receiving written notice/invoice from the COUNTY that payment is required. The costs invoiced by the COUNTY and paid by the CITY under this AGREEMENT shall be actual costs and staff time expended for the CI services using manhour records maintained by the COUNTY.

3.1.2 The CITY shall notify the COUNTY of its intent to approve or deny any increases to CI services beyond the estimates stated in this AGREEMENT within ten (10) working days of receiving the COUNTY's notice per Section 3.2.2. The CITY's approval is not to be unreasonably withheld. Any delay cost associated with the CITY's failure to respond in writing, within the prescribed number of days set forth in 3.1.2, shall be the responsibility of the CITY. The CITY shall be responsible for any costs caused by its own delays. If request for additional TIME is denied by the CITY, the COUNTY shall cease CI services and will have no further obligation under this AGREEMENT.

3.1.3 The CITY shall notify the COUNTY, in writing, when CI services are scheduled to start and finish. The CITY shall schedule and invite the COUNTY to all pre-construction and construction progress meetings. In the event the COUNTY ceases CI services for any reason, the CITY will reimburse the COUNTY for the CI services completed as of the date the COUNTY ceased the CI services.

3.1.4 The CITY shall provide copies of the final PROJECT plans and specifications to the COUNTY prior to issuing notice to proceed to the CONTRACTOR.

3.1.5 The CITY shall draft and execute all change orders with the CONTRACTOR associated with the PROJECT and provide approved copies to the COUNTY.

3.1.6 The CITY shall continue to be responsible for the operation and maintenance of Dr. Martin Luther King Jr. Blvd. upon completion of the PROJECT.

3.1.7 The CITY shall be responsible for all coordination with FDOT.

3.1.8 The CITY shall be responsible for submitting invoices to FDOT.

3.1.9 The CITY shall be responsible for directing the CONTRACTOR and deciding any construction issues.

3.1.10 The CITY shall communicate and coordinate directly with the CONTRACTOR regarding the PROJECT and inform the COUNTY of any decisions that affect CI services.

3.1.11 The CITY shall be responsible for hiring a testing lab consultant to perform all required testing services for the PROJECT. However, upon written request by the CITY, the COUNTY will procure a testing lab consultant which the CITY shall reimburse at actual costs. The COUNTY will request CITY approval of the testing lab consultant's scope and fee prior to executing an agreement with the testing lab consultant. Any delays related to procurement of testing lab services for the PROJECT shall be borne by the CITY.

3.1.12 The CITY shall be responsible for the maintenance of traffic plan review and approval and provide approved copies to the COUNTY.

3.1.13 The CITY shall be responsible for shop drawing review and approval and shall provide approved copies to the COUNTY.

**3.2 COUNTY Commitments and Duties.** COUNTY agrees to perform the following:

3.2.1 The COUNTY agrees to provide CI services as described in Section 3.2. CI services include construction inspection but not Equal Employment Opportunity (EEO) required monitoring or documentation services, or professional engineering services. TIME for CI services shall be for a maximum of 180 calendar days. Upon written request by the CITY, the TIME may be extended as an optional service at a rate of \$680.00/day for eight (8) hour workdays.

3.2.2 The COUNTY shall obtain the CITY's approval for any increases to the CI services beyond the estimates stated in Sections 3.1.1 and 3.2.1 of this AGREEMENT.

3.2.3 The COUNTY shall verify that the CONTRACTOR constructs the PROJECT in accordance with the plans, permits, and specifications provided by the CITY.

3.2.4 The COUNTY shall maintain records for CI services for the PROJECT.

3.2.5 The COUNTY shall bring construction issues to the CITY's attention.

3.2.6 The COUNTY shall verify quantities on pay applications submitted by the CONTRACTOR to the CITY, if requested by the CITY.

**Section 4 - Termination**

4.1 Either Party may elect to terminate this AGREEMENT for any reason and at any time, by providing written notice to the other Party.

4.2 Upon termination, if the GRANT AGREEMENT, as referred to herein, or any other applicable grant condition requires the CITY to repay or return any funds for CI services to FDOT, the CITY shall nonetheless remain responsible to reimburse the COUNTY for all CI services provided for the PROJECT.

**Section 5 - Indemnification** - The CITY shall protect, defend, reimburse, indemnify and hold the COUNTY, its agents, employees and elected officers free and harmless from and against any and all claims, liability, expenses, losses, costs, fines and damages or causes of action of every

kind or character including attorney's fees, whether at trial or appellate levels or otherwise arising out of or related to the PROJECT, or arising during or as a result of the CITY's performance of the terms of this AGREEMENT, or due to the acts or omissions of the CITY. The CITY's aforesaid indemnity and hold harmless obligations shall apply to the fullest extent permitted by law. Notwithstanding the foregoing, nothing set forth in this paragraph shall constitute a waiver of sovereign immunity beyond the limits set forth at Section 768.28, Florida Statutes. This paragraph shall survive the expiration or termination of this AGREEMENT.

**Section 6 - Enforcement Costs** - In any action brought by either Party to enforce this AGREEMENT, each Party shall be responsible for its own attorney's fees and costs.

**Section 7 - Independent Contractor** - COUNTY and the CITY are and shall be, in the performance of all work, services and activities under this AGREEMENT Independent Contractors and not employees, agents or servants of the other Party. All COUNTY employees engaged in the work or services performed pursuant to this AGREEMENT shall at all times, and in all places, be subject to COUNTY's sole direction, supervision, and control. All CITY employees engaged in the work or services performed pursuant to this AGREEMENT shall at all times, and in all places, be subject to CITY's sole direction, supervision, and control. The Parties shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the parties relationship and the relationship of its employees to the other Party shall be that of an Independent Contractor and not as employees or agents of the other.

COUNTY does not have the power or authority to bind the CITY in any promise, agreement or representation.

**Section 8 – Personnel** - COUNTY represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this AGREEMENT. Such personnel shall not be employees of or have any contractual relationship with the CITY.

All of the services required hereinunder shall be performed by COUNTY or its consultant, and personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

**Section 9 - Insurance** - Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes (STATUTE), the CITY represents that it is self-insured with coverage subject to the limitations of the STATUTE, as may be amended. If the CITY is not self-insured, the CITY shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this AGREEMENT, insurance coverage at limits not less than those contained in the STATUTE. Should the CITY purchase excess liability coverage, the CITY agrees to include the COUNTY as an Additional Insured. The CITY agrees to maintain or to be self-



insured for Workers' Compensation insurance in accordance with Chapter 440, Florida Statutes. Should the CITY contract with a third-party (CONTRACTOR) to perform any service related to the AGREEMENT, the CITY shall require the CONTRACTOR to provide the following minimum insurance:

9.1 **Commercial General Liability** insurance with minimum limits of \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include the CITY and the COUNTY as Additional Insureds. The CITY shall also require that the CONTRACTOR include a Waiver of Subrogation against the COUNTY.

9.2 **Business Automobile Liability** insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.

9.3 **Workers' Compensation** insurance in compliance with Chapter 440, Florida Statutes, and which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

When requested, the CITY shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance. Compliance with the foregoing requirement shall not relieve the CITY of its liability and obligations under this AGREEMENT.

Right to Review COUNTY reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage. Additionally, the COUNTY reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due to its poor financial condition or failure to operating legally.

**Section 10 - Breach and Opportunity to Cure** - The parties expressly covenant and agree that in the event either Party is in default of its obligations under this AGREEMENT, each Party shall have thirty (30) days written notice before exercising any of its rights.

**Section 11 - Notice** - All notices required or allowed under this AGREEMENT shall be in writing, and deemed sufficient to each Party when sent by United States Mail, postage prepaid, to the following:

All notices to the CITY shall be sent to:  
City of South Bay  
335 SW 2<sup>nd</sup> Avenue

South Bay, FL 33493  
Attn: Leondrae Camel, City Manager

All notices to the COUNTY shall be sent to:  
Albert Hoffman, Director, Construction Coordination  
Palm Beach County  
Engineering and Public Works Department  
P.O. Box 21229  
West Palm Beach, FL 33416-1229

**Section 12 - Modification and Amendment** - Except as expressly permitted herein to the contrary, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith. Except that either Party may from time to time change the address to which notice under this AGREEMENT shall be given upon three (3) days prior written notice to the other Party.

**Section 13 – Remedies** - This AGREEMENT shall be governed by and in accordance with 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.

**Section 14 - No Waiver** - Any waiver by either Party of its rights with respect to a default under this AGREEMENT, or with respect to any other matters arising in connection with this AGREEMENT, shall not be deemed a waiver with respect to any subsequent default or other matter. The failure of either Party to enforce strict performance by the other Party of any of the provisions of this AGREEMENT or to exercise any rights under this AGREEMENT shall not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provisions or rights in that or any other instance.

**Section 15 - Joint Preparation** - The preparation of this AGREEMENT has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial constraint, be construed more severely against one of the parties than the other.

**Section 16 - Non-Discrimination** - The Parties agree to comply with the COUNTY's Non-discrimination Policy, as described in Resolution 2017-1770, as amended, and that neither Party conducts business with nor appropriates funds to any entity that practices discrimination on the

basis of race, color, national origin, disability, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity or expression, disability, or genetic information. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

**Section 17 - Counterparts** - This AGREEMENT, including the exhibit referenced herein, may be executed in two or more counterparts, all of which shall constitute collectively but one and the same AGREEMENT. The COUNTY may execute the AGREEMENT through electronic or manual means. The CITY shall execute by manual means only, unless the COUNTY provides otherwise.

**Section 18 - Compliance with Codes and Laws** - COUNTY and CITY shall abide by all applicable federal, state and local laws, orders, rules and regulations when performing under this AGREEMENT. COUNTY and CITY further agree to include this provision in all subcontracts issued as a result of this AGREEMENT.

**Section 19 - Office of the Inspector General** - The 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 CITY, 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 a 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.

**Section 20 - Public Entity Crime Certification** - As provided in Section 287.132-133, Florida Statutes, as may be amended from time to time, by entering into this AGREEMENT or performing any work in furtherance hereof, COUNTY shall have its consultant certify that their affiliates, suppliers and sub consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within thirty-six (36) months immediately preceding the date hereof. This notice is required by Section 287.133(3)(a), Florida Statutes.

**Section 21 - Severability** - If any section, paragraph, sentence, clause or provision of this AGREEMENT is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this AGREEMENT.

**Section 22 - Entirety of AGREEMENT** - COUNTY and CITY agree that this AGREEMENT sets forth the entire agreement between the Parties and there are no promises or understandings other than those stated herein.

**Section 23 - Survival** - The obligations, rights, and remedies of the Parties hereunder, which by their nature survive the termination of this AGREEMENT or the completion of the PROJECT, shall survive such termination or PROJECT completion and inure to the benefit of the Parties.

**Section 24 - Third Party Beneficiary** - 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 AGREEMENT, including, but not limited to, any citizen or employees of the COUNTY and/or the CITY.

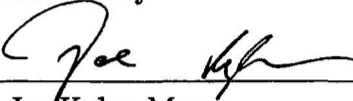
**Section 25 - Assignment** - Neither the COUNTY nor the CITY shall assign, sublet, convey or transfer its interest in this AGREEMENT without the prior written consent of the other.

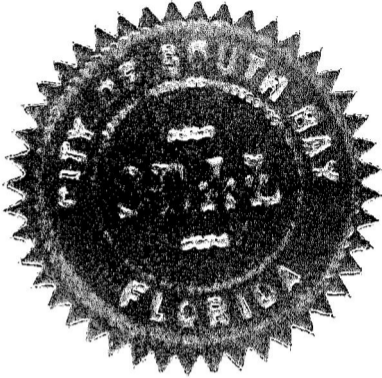
**Section 26 - Effective Date** - This AGREEMENT shall become effective immediately upon the execution by both parties and upon filing with the Clerk of the Circuit Court of Palm Beach County, Florida.

**Section 27 - Access and Audits** - COUNTY and CITY shall maintain books, records, and documents to justify all charges, expenses and costs incurred under this Agreement and in performing the CI services, in accordance with Generally Accepted Accounting Principles (GAAP), as promulgated by the Government Finance Officers Association from time to time. The COUNTY and CITY shall have access to all books, records, and documents as required in this AGREEMENT, and for at least three (3) years after completion of the CI services. In the event any work is subcontracted by COUNTY, COUNTY shall similarly require each Contractor and subcontractor to maintain and allow access to such records for audit purposes.

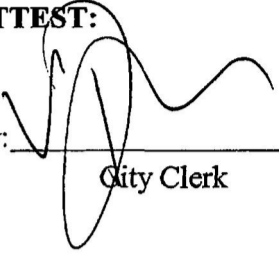
IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this AGREEMENT for PROJECT, on behalf of the COUNTY, and CITY has hereunto set its hand the day and year above written.

**CITY:**  
**City of South Bay**

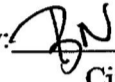
  
\_\_\_\_\_  
Joe Kyles, Mayor



**ATTEST:**

  
By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By:  \_\_\_\_\_  
City Attorney

{SIGNATURE PAGES CONTINUED}

**ATTEST:**

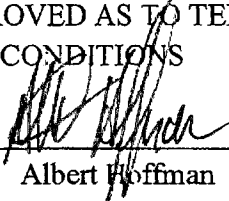
Joseph Abruzzo  
Clerk of the Circuit Court & Comptroller

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

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: ybh/tel \_\_\_\_\_  
Yelizaveta B. Herman  
Assistant County Attorney

APPROVED AS TO TERMS  
AND CONDITIONS

By:  \_\_\_\_\_  
Albert Hoffman  
Director, Construction Coordination

**COUNTY:**

**Palm Beach County**, a Political Subdivision of the  
State of Florida, by and through its Board of County  
Commissioners

By: \_\_\_\_\_  
Gregg K. Weiss, Mayor


(Seal)

**BOARD OF COUNTY COMMISSIONERS  
PALM BEACH COUNTY  
BUDGET Amendment**

FUND Transportation Improvement

BGRV 111522-89  
BGEX 111522-351

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 01/19/23	REMAINING BALANCE
<b>REVENUES</b>								
<b>SW 10<sup>th</sup> AVENUE FROM SOUTH TERMINUS TO DR. MARTIN LUTHER KING JR. BOULEVARD</b>								
3500-361-1987-6993	Engineering Inspection & Review Fees	0	0	90,000	0	90,000		
<b>TOTAL RECEIPTS &amp; BALANCES</b>		185,195,585	181,937,153	90,000	0	182,027,153		
<b>EXPENDITURES</b>								
<b>SW 10<sup>th</sup> AVENUE FROM SOUTH TERMINUS TO DR. MARTIN LUTHER KING JR. BOULEVARD</b>								
3500-361-1987-8101	Contributions-Other Government Agencies	0	0	90,000	0	90,000	0	90,000
<b>TOTAL APPROPRIATIONS &amp; EXPENDITURES</b>		185,195,585	181,937,153	90,000	0	1812,027,153		

<b>Engineering &amp; Public Works</b>	<b>SIGNATURE</b> 	<b>DATE</b> 01/20/2023	By Board of County Commissioners At Meeting of <u>March 14, 2023</u>
<b>Administration / Budget Approval</b>	_____	_____	
<b>OFMB Department – Posted</b>	_____	_____	

**Deputy Clerk to the Board of County Commissioners**