

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

Meeting Date: August 22, 2023 [] Consent [] Regular
[] Workshop [X] Public Hearing

Department: Engineering & Public Works Department
Submitted By: Engineering & Public Works Department
Submitted For: Roadway Production Division

I. EXECUTIVE BRIEF


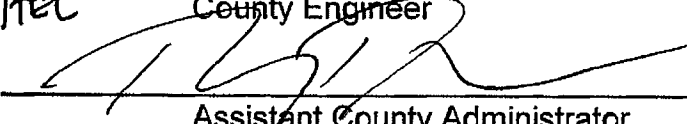
Motion and Title: Staff recommends motion to adopt: an Ordinance amending Chapter 23, Article 1, Section 23-1 (Five Year Road Program); amending Chapter 23, Article 1, Section 23-2 (Review of Implementation, Etc.: Suspension of Article VI); Providing for severability; Providing for Repeal of Laws and Ordinances in Conflict; Providing for Inclusion in the Code of Laws and Ordinances; Providing for a Savings Clause; Providing for Captions; and Providing for an Effective Date.

SUMMARY: On July 11, 2023, the Board of County Commissioners (BCC) approved this Ordinance amending the Five Year Road Program on preliminary reading and authorized advertisement for today's Public Hearing for final adoption. Currently, the Five Year Road Program (Program) is separate from the budget process. This amendment will include the Program with the Palm Beach County (County) Capital Improvement Program (CIP) in the County's budget, and eliminate the need for the mid-year adjustment. In order to comply, County Code Chapter 23, Article 1, Sections 23-1 through 23-2 (Ordinance) must be amended to reflect these changes. The proposed amendments to the Ordinance provide that beginning with fiscal year 2024, the County Administrator or designee are to include the Program in the CIP and in the budget presentation to the BCC. BCC approval of the CIP, as part of the adopted County budget for a given fiscal year shall constitute approval of the Program for that fiscal year (Approved Program FY). Further, the proposed amendments will allow the BCC to direct the Department to utilize the most restrictive and allowable revenue source first and then the next restrictive and allowable revenue source until a project is funded. This funding process will promote efficient completion of projects on the Program. Section 23-1 (f) of the amended Ordinance provides that the BCC, by Resolution, may make certain changes to the Approved Program FY to promote a more efficient construction of the road projects. As the Program will now be presented to the BCC, which will be reviewing and approving projects for the upcoming fiscal year, as part of BCC approval of the County fiscal year budget, a separate Oversight and Advisory Committee is not needed and the requirement for that will be removed from the Ordinance. The Ordinance will continue to provide for a method of prioritizing roadway improvements based on engineering consideration. Countywide (YBH)

Background and Policy Issues: The BCC adopted the current Program on December 22, 2022 (Ordinance 22-035), as provided in Exhibit A therein. The Department recommends approval of this Ordinance to promote efficient completion of projects on the Program and allow for the Program to be included in the County's CIP.

Attachments:

1. Proposed Ordinance: clean version (2 originals)
 2. Proposed Ordinance: underline / strikethrough version (2 originals)
-

Recommended by:	 _____ County Engineer	7/26/2023 Date
Approved By:	 _____ Assistant County Administrator	8/3/2023 Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2023	2024	2025	2026	2027
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	-0-	-0-	-0-	-0-	-0-
# 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 Dept Unit Object

Recommended Sources of Funds/Summary of Fiscal Impact:

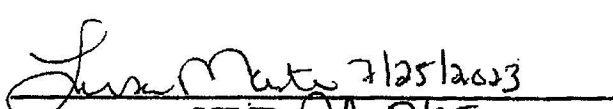
**This item has no fiscal impact. Currently, the Five Year Road Program (Program) is separate from the budget process. Approval of this amendment will include the Program with the Palm Beach County (County) Capital Improvement Program (CIP) in the County's budget. Further, the proposed amendments will allow the Board of County Commissioners (BCC)to direct the Department to utilize the most restrictive and allowable revenue source first and then the next restrictive and allowable revenue source until a project is funded.

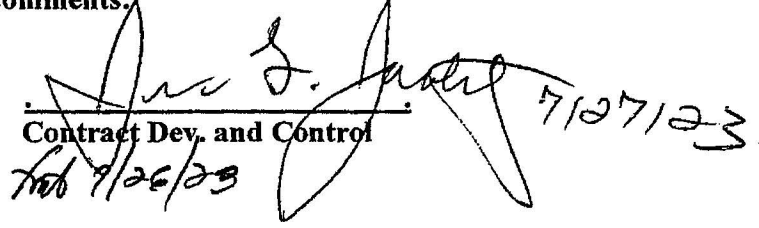


C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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


 OFMB JA 7/25
 MD 7/25


 Contract Dev. and Control
 7/26/23

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.

ORDINANCE NO. 2023-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 23, ARTICLE I, SECTION 23-1 OF THE PALM BEACH COUNTY CODE (CODE) (FIVE YEAR ROAD PROGRAM – GENERALLY); AMENDING SECTION 23-2 OF THE CODE (REVIEW OF IMPLEMENTATION, ETC.; SUSPENSION OF ARTICLE VI OF THIS CHAPTER); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS AND ORDINANCES IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, as may be amended, empowers counties to establish, coordinate, and enforce regulations as are necessary for the protection of the public, to adopt technical codes and regulations, to regulate arterial and other roads and related facilities, and to perform other acts not inconsistent with the laws of the State of Florida; and

WHEREAS, Palm Beach County (County) is a Charter County and has all powers of local self-government; and

WHEREAS, the Board of County Commissioners (BCC) determined it is in the best interest of the public's health, safety, and welfare to establish a Five Year Road Program (Program) to be used as a guide to meet existing and future ground transportation needs; and

WHEREAS, the BCC approved Ordinance 85-40, which established the Program setting forth the road projects to be funded, designed, and constructed by the County within the subsequent five years; and

WHEREAS, the last adopted amendment to the Program was Ordinance 2022-035, codified in Chapter 23, Article I, Section 23-1 of the Palm Beach County Code (Code); and

WHEREAS, it has been determined that combining the Program with the County's Capital Improvement Program (CIP) is the most efficient way to present the Program to the BCC and for the BCC to approve the Program's projects and funding for the upcoming fiscal year; and

WHEREAS, the County Administrator or designee will be presenting the Program with the CIP as part of the County's annual budget, when the BCC will consider approval of projects in the Program for the upcoming fiscal year.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. Chapter 23, Article I, Section 23-1 is hereby deleted in its entirety and replaced, as follows:

Five Year Road Program – Generally.

- (a) *Title.* This Section shall be known as the "Palm Beach County Five Year Road Program Ordinance."
- (b) *Purpose.* The Palm Beach County (County) Comprehensive Plan, Transportation Element, is designed to be used as a guide to meet existing and future ground transportation needs of the County including major roadways within incorporated municipalities. The element analyzes the primary transportation network within the County to determine system deficiencies and identify improvements.

The further purpose of this Section is to encourage the prioritization of projects, provide for better timing of right-of-way acquisition and provide improved planning for financial funding mechanisms.

- (c) *Adoption of revised Five Year Road Program.* The Board of County Commissioners (BCC) has adopted the Five Year Road Program (Program) as set forth in Exhibit "A" of Ordinance 2022-035,

which lists each project approved (Project) for funding in each fiscal year (FY) from 2023 through 2027. Beginning for FY 2024, the County Administrator or designee shall include the Program, as proposed to be amended, in the County's Capital Improvement Program (CIP) that is presented annually to the BCC. BCC approval of the CIP, as part of the adopted County budget for a given FY shall constitute approval of the projects in the Program for that given FY (Approved Program FY).

(d) *Implementation of Approved Program FY.* The County Administrator and the County Engineer are directed to implement the Approved Program FY by taking such actions as are necessary to cause the construction phase of the roadway segments indicated on the Approved Program FY, make periodic reports to the BCC with regard to the progress of the projects and to bring all necessary agreements and budget amendments to accomplish the projects to the BCC for consideration.

(e) *Funding of Projects on the Program.* Funding for projects on the Program can come from sources such as grants, impact fees, proportionate share payments, gas tax, infrastructure sales tax, and interest funds. Grant funding may be specific to a certain project, making that revenue source restrictive. Impact fees are required to be expended within a specific time frame and impact fee zone, making that revenue source restrictive. Proportionate share payments are required to be expended in the same region as they are collected, making that revenue source restrictive. Gas tax funding may only be utilized in accordance with Florida Statutes 336.025(1)(A), 336.025(1)(B), 336.021(1)(A), 206.60, and 206.41, making this revenue source restrictive. Infrastructure surtax should be utilized in accordance with the approved Infrastructure Surtax Project Plan, making this revenue source restrictive. Interest funds may be utilized county-wide, making this revenue source the least restrictive.

Projects on the Program are required to use the most restrictive and allowing funding available at the time of project commencement first to promote efficient construction of those projects. Projects shall be funded with revenue sources from the most restrictive and allowable first and then consecutively to the least restrictive source until the project is funded.

(f) *Funding of Other Roadway Improvements; Interpretation of the Approved Program FY.* This Section shall not be construed to prevent the BCC from constructing other roadway improvements which are not listed on the Program, provided the improvements are funded from sources which will not delete or delay projects included on the Program. It is recognized that the Approved Program FY, depicting Project limits, of the various projects, length of projects, type of work, timetables and costs is an approximation that may require modification and updating by the County Administrator, based upon more detailed information and bidding results; provided that the following changes to the Approved Program FY may only be made by resolution of the BCC:

- (1) Changes that increase or decrease the total approved appropriations;
- (2) Changes requiring funding from a reserve account;
- (3) Changes increasing a BCC approved project budget by more than five (5) percent;
- (4) Changes which significantly affect the scope, nature, or phasing of a capital project.
- (5) Deletion, substitution, or addition of a project.

Section 2. Section 23-2. is hereby deleted in its entirety and replaced, as follows:

Review of Implementation: Suspension of Article VI of this Chapter.

- (a) *Intent:* The Board of County Commissioners (BCC) finds that Article VI of this chapter is premised on Palm Beach County's (County) commitment to adhere to and implement the adopted Five Year Road Program (Program) and the 1989 County Comprehensive Plan (Plan), as amended. The County's failure to maintain its commitment to adhere to and implement its adopted Program as set forth in this section shall result in a review and reconsideration of the adopted level of service contained in Article VI of this chapter and in the Plan.
- (b) *Deletion or Delay of a Project in the Approved Program FY:* The Deletion of a project from the Approved Program FY, as defined in Section 23-1, may be done by an extraordinary vote of a majority plus one (1) of the BCC. For purposes of this section, "deletion" of a project shall mean the elimination of the project, the removal of or failure to establish funding of the project, the material reduction in the scope of work or funding (as it affects the construction project), or the postponement of the construction project in the Program for more than three (3) years beyond the year the construction was originally programmed. "Deletion" does not include delays associated with right-of-way acquisition as a result of judicial decision, redesign after the contract has been let, construction, or other delays not under the control of the County.
- (c) *Standards Required Finding That County Is Adhering To and Implementing Its Approved Program FY:* Concurrent with the approval of the Program for the next FY, the BCC shall determine whether the County has adhered to and implemented the Approved Program FY (Required Finding). The Required Finding shall be based upon substantial, competent evidence of the following:
 - (1) *Funding:* The amount of funding of the current fiscal year of the Program is at a minimum, as contemplated in the Plan and the Program.
 - (2) *New Projects:* New projects added to the Program are needed to maximize capacity and are added at a rate contemplated in the Plan.

BCC approval of the CIP, as part of the adopted County budget for a given FY, shall constitute the Required Finding.

- (d) *Effect of Failure of County To Adhere To and Implement Its Program:* If the BCC does not continue to fund the Program in accordance with the Plan, or does not continue to add projects to the Program at a rate contemplated in the Plan, as corrected, updated or modified as permissible in Florida Statutes section 163.3177(3)(b); the BCC shall review the adopted level of service to determine whether it is realistic, adequate and financially feasible.
- (e) *Method of Prioritizing Thoroughfare Improvements:*
- (1) The County shall undertake data collection and review of such regarding major intersection capacity and peak hour link capacity, along with Average Annual Daily Traffic (AADT) capacity. The County shall use this information in programming major thoroughfare system improvements in the Program.
 - (2) The objective shall be to effectively spend available funds so as to maximize capacity, balancing the amount of capacity added, the cost of improvements, the time the improvements will be utilized, and the "expandability" of those improvements to the ultimate section of road. Volume to AADT capacity ratios shall be the preliminary criterion for prioritizing funding of improvements. Due consideration shall be given to the amount of area opened up development as a result of the various improvements. Deferral or elimination of link improvements made unnecessary as a result of other major thoroughfare system improvements, such as intersection improvements, or refined capacity analysis shall not be considered the deletion of a road improvement unless the deletion is of a project scheduled for construction of the Approved Program FY. When evaluating whether a particular improvement should be deleted from the Program, due consideration shall be given to previous reliance of improvements scheduled in the Program.
 - (3) In addition, the analysis shall identify improvements to relieve traffic demands on all deficient facilities which are not included in the Program. The County shall estimate traffic volumes to be on the roadway network at the end of the last year in the Program and determine what additional improvements will be needed to meet those future traffic demands. Consideration will be given to staging improvements by constructing intersection improvements or other spot roadway improvements such that maximum roadway system and funding efficiency are achieved. These improvements shall be included in the analysis but will not be required to be identified for construction in a certain year.

Section 3. Severability.

The invalidity of any provision, portion, article, paragraph, clause, or any portion thereof of this Ordinance shall not affect the validity of any other provision, portion, article, paragraph, clause, or any portion thereof.

Section 4. Repeal of Laws and Ordinances in Conflict.

All local laws and ordinances applying to the unincorporated area of the County in conflict with any provision of this Ordinance are hereby repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Laws and Ordinances.

The provisions of this Ordinance shall become and be made part of the Code of Laws and Ordinances of Palm Beach County, Florida, and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word Ordinance may be changed to Section, Ordinance, or another appropriate word.

Section 6. Savings Clause

Notwithstanding anything to the contrary, all provisions of Palm Beach County Code Section 23-1, codifying Palm Beach County Ordinance 85-40, as amended, and all provisions of Palm Beach County Code Section 23-2, codifying Palm Beach County Ordinance 87-18, as amended, are specifically preserved and remain in full force and effect for the limited purpose of enforcing any alleged violations of said Code which occurred prior to its appeal or amendment.

Section 7. Captions.

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Section 8. Effective Date.

The provisions of this Ordinance shall become effective upon filing with the Department of State.

(Remainder of page left intentionally blank)

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, Florida,
on this _____ day of _____, 2023.

Joseph Abruzzo,
Clerk of the Circuit Court & Comptroller

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

By: _____
Deputy Clerk

By: _____
Gregg K. Weiss, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: ybh
Yelizaveta B. Herman
Assistant County Attorney

EFFECTIVE DATE:
Filed with the Department of State on the _____ day of _____, 2023.

ORDINANCE NO. 2023-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 23, ARTICLE I, SECTION 23-1 OF THE PALM BEACH COUNTY CODE (CODE) (FIVE YEAR ROAD PROGRAM – GENERALLY); AMENDING SECTION 23-2 OF THE CODE (REVIEW OF IMPLEMENTATION, ETC.; SUSPENSION OF ARTICLE VI OF THIS CHAPTER); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS AND ORDINANCES IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, as may be amended, empowers counties to establish, coordinate, and enforce regulations as are necessary for the protection of the public, to adopt technical codes and regulations, to regulate arterial and other roads and related facilities, and to perform other acts not inconsistent with the laws of the State of Florida; and

WHEREAS, Palm Beach County (County) is a Charter County and has all powers of local self-government; and

WHEREAS, the Board of County Commissioners (BCC) determined it is in the best interest of the public's health, safety, and welfare to establish a Five Year Road Program (Program) to be used as a guide to meet existing and future ground transportation needs; and

WHEREAS, the BCC approved Ordinance 85-40, which established the Program setting forth the road projects to be funded, designed, and constructed by the County within the subsequent five years; and

WHEREAS, the last adopted amendment to the Program was Ordinance 2022-035, codified in Chapter 23, Article I, Section 23-1 of the Palm Beach County Code (Code); and

WHEREAS, it has been determined that combining the Program with the County's Capital Improvement Program (CIP) is the most efficient way to present the Program to the BCC and for the BCC to approve the Program's projects and funding for the upcoming fiscal year; and

WHEREAS, the County Administrator or designee will be presenting the Program with the CIP as part of the County's annual budget, when the BCC will consider approval of projects in the Program for the upcoming fiscal year.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. Chapter 23, Article I, Section 23-1 is hereby ~~amended~~deleted in its entirety and replaced, as follows:

Five Year Road Program – Generally.

- (a) *Title.* This Section shall be known as the "Palm Beach County ~~Five-Year~~ Five Year Road Program Ordinance."
- (b) *Purpose.* The Palm Beach County (County) Comprehensive Plan, Transportation Element, is designed to be used as a guide to meet existing and future ground transportation needs of the County including major roadways within incorporated municipalities. The element analyzes the primary transportation network within the County to determine system deficiencies and identify improvements.

~~The BCC now desires to codify in this Section a reasonably attainable program of roadway construction for the next five (5) years and match the construction of the projects with available funding.~~

The further purpose of this Section is to encourage the prioritization of projects, provide for better timing of right-of-way acquisition and provide improved planning for financial funding mechanisms.

- (c) *Adoption of revised ~~Five-Year~~ Five Year Road Program.* The Board of County Commissioners (BCC) has adopted the list of projects for the Five- Year Road Program (Program) as set forth in Exhibit "A" of Ordinance 2022-045035, which lists each projects approved (Projectts) for funding in each fiscal year (FY) from 2023 through 2027. ~~is deleted shall be deleted and replaced annually with the revised Program upon adoption. Beginning with the County budget for Fiscal Year (FY) 2024, the first year of the Program shall be adopted with the County Administrator or designee shall include the Program, as proposed to be amended, in the County's Capital Improvement Program (CIP) that is presented annually to the BCC. The remaining four years shall be presented by the County Administrator, or designee, with the County's annual budget. BCC a~~Approval of the CIP, as part of the adopted County budget for a given FY shall constitute approval of ~~the funding for first year of the projects in the Program for that given FY (Approved Program FY).~~ and replaced with the attached Exhibit "A", which is incorporated herein, and is hereby adopted as the Five-Year Road Program.
- (d) *Implementation of Approved Program FY.* The County Administrator and the County Engineer are directed to implement the Approved Program FY by taking such actions as are necessary to cause the construction phase of the roadway segments indicated on the Approved Program FY, make periodic reports to the BCC with regard to the progress of the projects and to bring all necessary agreements and budget amendments to accomplish the projects to the BCC for consideration.
- (e) *Funding of Projects on the Program.* Funding for projects on the Program can come from sources such as grants, impact fees, proportionate share payments, gas tax, infrastructure sales tax, and interest funds. Grant funding may be specific to a certain project, making that revenue source restrictive. Impact fees are required to be expended within a specific time frame and impact fee zone, making that revenue source restrictive. Proportionate share payments are required to be expended in the same region as they are collected, making that revenue source restrictive. Gas tax funding may only be utilized in accordance with Florida Statutes 336.025(1)(A), 336.025(1)(B), 336.021(1)(A), 206.60, and 206.41, making this revenue source restrictive. Infrastructure surtax should be utilized in accordance with the approved Infrastructure Surtax Project Plan, making this revenue source restrictive. Interest funds may be utilized county-wide, making this revenue source the least restrictive.

Projects on the Program are required to use the most restrictive and allowing funding available at the time of project commencement first to promote efficient construction of those projects. Projects shall be funded with revenue sources from the most restrictive and allowable first and then consecutively to the least restrictive source until the project is funded.

~~(e) *Modification of Program.* Each year prior to December, the BCC shall consider an amendment to this Section modifying the list of projects contained on Exhibit "A" to create a viable list of funded projects for the succeeding five (5) years.~~

~~From time to time during each year, the BCC, by resolution, may shift funding within the Program to promote the more efficient construction of the projects. Deletions, substitutions and additions of entire construction projects from Exhibit "A" may only be accomplished by Ordinance of the Board of County Commissioners. Deletions of projects may be accomplished no more frequently than twice a year.~~

~~(f) *Funding of Other Roadway Improvements; Interpretation of Exhibit* the Approved Program FY. This Section shall not be construed to prevent the BCC from constructing other roadway improvements which are not listed on Exhibit "A." the Program, provided the projects improvements are funded from sources which will not delete or delay projects included on Exhibit "A." on the Program.~~

It is recognized that the current year of the Approved Program FY, Exhibit "A" depicting Project limits, of the various projects, length of projects, type of work, timetables and costs is an approximation that will may require modification and updating by the County Administrator, based upon more detailed information and bidding results; provided that the following changes to the Approved Program FY may only be made by resolution of the BCC and only for the approved fiscal year:

- (1) Changes that increase or decrease the total approved appropriations ~~of the Program;~~
- (2) Changes requiring funding from a reserve account;
- (3) Changes increasing a BCC approved project budget by more than five (5) percent;
- (4) Changes which significantly affect the scope, nature, or phasing of a capital project.
- (5) Deletion, substitution, or addition of a project.

Section 2. Section 23-2. is hereby ~~amended~~ deleted in its entirety and replaced, as follows:

Same—Review of Implementation, etc.; Suspension of Article VI of this Chapter.

(a) *Intent:* The Board of County Commissioners (BCC) finds that Article VI of this chapter is premised on the Palm Beach County's (County)~~county's~~ commitment to adhere to and implement the adopted Five-Year Road Program (Program) and the 1989 County Comprehensive Plan (Plan), as amended (referred to as "plan" in this section). The County's failure to maintain its commitment to adhere to and implement its adopted Five-Year Road Program as set forth in this section shall result in a review and reconsideration of the adopted level of service contained in Article VI of this chapter and in the ~~plan~~Plan.

~~(b) *Description of Five Year Road Program:* The Five Year Road Program is adopted by the Board of County Commissioners in section 23-1. In that section as amended, and in the plan, the county adopted a reasonably attainable program of roadway construction for a five year period and matched the construction of projects with projected funding. Section 23-1 further provides that prior to December of each year, the Board of County Commissioners shall consider section 23-1 to modify the list of projects to create a viable list of funded projects for the succeeding five (5) years. The modification to the Five Year Road Program shall continue to include, at a minimum, a description of the road project, the type of road construction required, and the amount of money to be spent each fiscal year for plan preparation, right-of-way acquisition and actual construction.~~

~~(c) *Monitoring of County's Adherence to and Implementation of the Adopted Five Year Five Year Program:*~~

~~(1) *Generally:* The county's adherence to and the effectiveness of its implementation of the adopted Five Year Road Program shall be monitored by the Independent Five Year Road Program Oversight and Advisory Council (referred to as "Oversight and Advisory Council" in this section).~~

~~(2) *Oversight and Advisory Council:*~~

~~a. *Created membership:*~~

~~1. An Independent Five Year Road Program Oversight and Advisory Council is hereby created and established, consisting of nine (9) members. One (1) member shall be selected from each of the six (6) disciplines listed below so that all the disciplines are represented, and appointed by the Board of County Commissioners:~~

~~i. Construction management.~~

~~ii. Civil engineering.~~

~~iii. Operations research/systems analysis.~~

~~iv. Finance/certified public accounting.~~

v. ~~Economist.~~

vi. ~~Legal or general business.~~

2. ~~Three (3) members shall be selected from the general public, one (1) from each of the following geographic areas:~~

i. ~~North Palm Beach County: Bounded on the West by State Road 7 and a line being the projection north of the center line of State Road 7; bounded on the South by Southern Boulevard.~~

ii. ~~South Palm Beach County: Bounded on the West by State Road 7 and on the North by Southern Boulevard.~~

iii. ~~West Palm Beach County: Bounded on the East by State Road 7.~~

~~The members shall be appointed at large by a majority vote of the Board of County Commissioners, and shall be county residents. They shall serve two (2) year terms; provided that the initial term only of the members from construction management, civil engineering, operations research/systems analysis, finance/certified public accounting, and North Palm Beach County shall be one (1) year. Any member missing three (3) consecutive meetings may be replaced by the Board of County Commissioners, with the new appointment filling the unexpired term of the member replaced.~~

b. ~~Purpose and functions: The purpose of the Oversight and Advisory Council is to function as a resource for both the County Engineer and the Board of County Commissioners in matters of the Five Year Road Program implementation; to detect potential problems with county road building programs; to recommend to the Board of County Commissioners suggested corrective actions relating to any such problems so identified; to strengthen the confidence of the public and industry of the county in the road transportation improvement program; to generally monitor whether there is adherence to the adopted level of service standards and the Five Year Road Program schedule; to recommend funding sources for improving the major thoroughfare system.~~

e. ~~Activities: To implement the functions stated in paragraph (b) above, the members of the oversight and advisory council are directed:~~

1. ~~To aid in the review of policies, procedures and programs for use by the county engineer for implementation of the Five Year Road Program.~~

2. ~~To monitor whether the preparation of plans for road and bridge construction is on schedule.~~

- ~~3. To monitor whether the preparation of plans for right of way acquisitions and abandonments is on schedule.~~
- ~~4. To monitor the progress of road construction.~~
- ~~5. To monitor the collection and expenditure of all road revenues, including impact fees.~~
- ~~6. To monitor whether there is adherence to the adopted levels of service for the major thoroughfare system and the Five Year Road Program Schedule.~~
- ~~7. To monitor the impact of this section on the level of development activity by comparison to other communities.~~
- ~~8. To review and recommend funding sources, mechanisms, and mixes of funding to improve the major thoroughfare system.~~
- ~~9. To perform such other duties as the board of county commissioners shall direct; provided that the oversight and advisory council shall not be involved in recommending changes to, or the adoption of, the annual Five Year Road Program or the management of the engineering department.~~

~~d. Administration:~~

- ~~1. The office of the county administrator shall provide such administrative staff and assistance as is required for the council to perform its duties and functions.~~
- ~~2. All county departmental directors shall cooperate with the council to the fullest extent.~~

~~e. Reports:~~

- ~~1. The county engineer shall submit a report by January 10, April 10, July 10 and October 10 each year to the oversight and advisory council detailing the status of the county's implementation of its adopted Five Year Road Program. This report shall contain a detailed report on the status of each project in the Five Year Road Program, including the proposed commencement and completion dates of all programmed activities within each quarter of each fiscal year and the likelihood of meeting those dates.~~
- ~~2. The oversight and advisory council shall meet at least quarterly after receipt of the report of the county engineer and shall submit a report by May 30 and November 30 of each year to the board of county commissioners detailing its findings on the county's implementation of the adopted Five Year Road Program, the general~~

effectiveness of the county's road building efforts, and the other tasks contained in paragraph c. The oversight and advisory council may submit other reports to the board of county commissioners regarding actual as opposed to planned performance and shall respond to other requests from the board of county commissioners.

~~(3) *Review of the oversight and advisory council:* The need for, and tasks of, the oversight and advisory council shall be reviewed approximately June 1, 1992.~~

(db) *Modification of Five Year Road Deletion or Delay of a Project in the Approved Program FY:*

~~(1) *Semiannual modification of Five Year Road Program: extraordinary vote:* The Deletion of a project construction projects from the Approved Five Year Road Program FY, as defined in Section 23-1, may be done no more frequently than twice a year. By an extraordinary vote of a majority plus one (1) of the board of county commissioners BCC, shall be required to delete from or delay a project for more than one (1) year in the adopted Five Year Road Program. For purposes of this section, "deletion" of a construction project shall mean the elimination of the construction project, the failure to let a road construction contract, the removal of or failure to establish funding of the construction project, the material reduction in the scope of work or funding (as it affects the construction project), or the postponement of the construction project in the Five Year Road Program for more than one (1) year three (3) years beyond the year the construction was originally programmed, ~~in the 1988-92 Five Year Road Program or in the Five Year Road Program in which the construction was first added after 1987.~~ It "Deletion" does not include delays associated with right-of-way acquisition as a result of judicial decision, redesign after the contract has been let, construction, or other delays not under the control of the County.~~

~~(2) *Finding required prior to deleting projects in the adopted Five Year Road Program:* Prior to approving the deletion of any construction project from the county's Five Year Road Program, the board of county commissioners must find that the deletion of the construction project will not result in any link or intersection on the road network operating at greater than the adopted level of service as defined in article VI of this chapter if such link would not have operated at greater than the adopted level of service as defined in article VI of this chapter had the project been constructed as originally programmed in the adopted Five Year Road Program and that no project which was approved and phased based upon such assured construction would be denied building permits because of the deletion of the construction.~~

(ec) *Standards Required Finding That County Is Adhering To and Implementing Its Approved Program FY Adopted Five Year Road Program:* By approval of the County's annual budget, it shall be considered that the BCC has made a determination that the County Concurrent with the approval of

~~the Program for the next FY, the BCC adoption of the annual Five-Year Road Program, the board of county commissioners shall determine whether the County has adhered to and implemented its Five-Year Road the Approved Program FY (Required Finding). In order to make the determination that the county had adhered to and implemented its adopted Five-Year Road Program required by subsection (f) of this section the board of county commissioners must find the Theis finding Required Finding shall be following based upon substantial, competent evidence of the following that:~~

(1) *Funding:* The amount of funding of the current fiscal year of the Five-Year Road Program is at a minimum, as contemplated in the ~~plan~~ Plan and the Five-Year Road Program.

(2) *New fifth year Projects:* ~~The new fifth year being added to the Five-Year Road Program with projects~~ New projects will be added to the Five-Year Road Program are needed to maximize capacity and are added at a rate contemplated in the ~~plan~~ Plan.

~~(3) Projects on schedule: Fewer than twenty percent (20%) of the programmed road construction projects (on a line item basis) from the preceding fiscal year over which the county has control are more than twelve (12) months behind schedule.~~

BCC approval of the CIP, as part of the adopted County budget for a given FY, shall constitute the Required Finding.

(~~f~~d) *Effect of Failure of County To Adhere To and Implement Its Adopted Five-Year Road Program:* If the ~~board of county commissioners~~ BCC does not continue to fund the Five-Year Road Program in accordance with the ~~P~~ Plan, or does not continue to add projects to the Five-Year Road Program at a rate contemplated in the ~~plan~~ Plan, as corrected, updated or modified as permissible in Florida Statutes section 163.3177(3)(b); ~~or construction projects consisting of twenty (20) percent or more of the programmed construction projects (on a line item basis) from the preceding fiscal year over which the county has control are more than twelve (12) months behind schedule as determined after the effective date of this section pursuant to subsection (e), the board of county commissioners~~ BCC shall review the adopted level of service to determine whether it is realistic, adequate and financially feasible.

(~~g~~e) *Method of Prioritizing Thoroughfare Improvements:*

(1) The ~~county~~ County shall undertake data collection and review of such regarding major intersection capacity and peak hour link capacity, along with Average Annual Daily Traffic (AADT) capacity. ~~The County~~ It shall use this information in programming major thoroughfare system improvements in the Five-Year Road Program.

(2) The objective shall be to effectively spend available funds so as to maximize capacity, balancing the amount of capacity added, the cost of improvements, the time the improvements will be

utilized, and the "expandability" of those improvements to the ultimate section of road. Volume to AADT capacity ratios shall be the preliminary criterion for prioritizing funding of improvements. Due consideration shall be given to the amount of area opened up development as a result of the various improvements. Deferral or elimination of link improvements made unnecessary as a result of other major thoroughfare system improvements, such as intersection improvements, or refined capacity analysis shall not be considered the deletion of a road improvement unless the deletion is of a project scheduled for construction of the first year of the Approved Five-Year Road Program ~~FY~~ or was scheduled for construction in the first year of a ~~previous Five-Year Road Program~~. When evaluating whether a particular improvement should be deleted from the ~~Five-Year Road Program~~, due consideration shall be given to previous reliance of improvements scheduled in the ~~Five-Year Road Program~~.

- (3) In addition, the analysis shall identify improvements to relieve traffic demands on all deficient facilities which are not included in the ~~Five-Year Road Program~~. The ~~county~~ County shall estimate traffic volumes to be on the roadway network at the end of the last year in the ~~Five-Year Road Program~~ and determine what additional improvements will be needed to meet those future traffic demands. Consideration will be given to staging improvements by constructing intersection improvements or other spot roadway improvements such that maximum roadway system and funding efficiency are achieved. These improvements shall be included in the analysis but will not be required to be identified for construction in a certain year.

Section 3. Severability.

The invalidity of any provision, portion, article, paragraph, clause, or any portion thereof of this Ordinance shall not affect the validity of any other provision, portion, article, paragraph, clause, or any portion thereof.

Section 4. Repeal of Laws and Ordinances in Conflict.

All local laws and ordinances applying to the unincorporated area of the County in conflict with any provision of this Ordinance are hereby repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Laws and Ordinances.

The provisions of this Ordinance shall become and be made part of the Code of Laws and Ordinances of Palm Beach County, Florida, and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word Ordinance may be changed to Section, Ordinance, or another appropriate word.

Section 6. Savings Clause

Notwithstanding anything to the contrary, all provisions of Palm Beach County Code Section 23-1, codifying Palm Beach County Ordinance 85-40, as amended, and all provisions of Palm Beach County

Code Section 23-2, codifying Palm Beach County Ordinance 87-18, as amended, are specifically preserved and remain in full force and effect for the limited purpose of enforcing any alleged violations of said Code which occurred prior to its appeal or amendment.

Section 67. Captions.

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Section 78. Effective Date.

The provisions of this Ordinance shall become effective upon filing with the Department of State.

(Remainder of page left intentionally blank)

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this _____ day of _____, 2023.

Joseph Abruzzo,
Clerk of the Circuit Court & Comptroller

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

By: _____
Deputy Clerk

By: _____
Gregg K. Weiss, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
Yelizaveta B. Herman
Assistant County Attorney

EFFECTIVE DATE:
Filed with the Department of State on the _____ day of _____, 2023.