

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

Meeting Date: May 18, 2021                       Consent                       Regular  
     Workshop                       Public Hearing

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

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to:

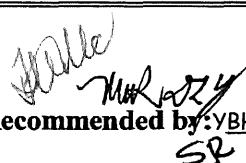
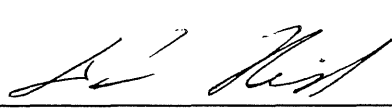

- A) **receive and file** an interlocal agreement with the City of Lake Worth Beach (City) for joint participation and project funding for design of utility adjustments for the Lake Osborne Drive over Lake Bass Canal Bridge Replacement (Project); and
- B) **approve** a budget amendment of \$19,577 in the transportation improvement fund to recognize reimbursement funding from the City and appropriate it to the Project.

**SUMMARY:** This agreement is being submitted to the Clerk of Circuit Court and Comptroller in accordance with Countywide PPM CW-O-051. The agreement was approved by the Deputy County Engineer as a delegated authority in accordance with Palm Beach County Administrative Code Section 404.00. This budget amendment is necessary to reflect the funding from the City for the design to be incorporated into the County's Project. District 3 (YBH)

**Background and Justification:** Palm Beach County Administrative Code Section 404.00 authorizes the County Administrator or designee to execute utility agreements. On October 23, 2013 the County Administrator delegated this authority to the County Engineer, the Deputy County Engineer, and the Assistant County Engineer.

**Attachments:**

- 1. Location Map
- 2. Interlocal Agreement (3)
- 3. Budget Amendment

 Recommended by: YBH/TEL SP	 _____ County Engineer	4/15/21 _____ Date
Approved By:	 _____ Assistant County Administrator	4/15/21 _____ Date

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	\$ 19,577	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	(\$ 19,577)	-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)					

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

**Budget Account No:**

Fund 3500 Dept 361 Unit 1542 Object 8101

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

Transportation Improvement Fund  
 Lake Osborne Dr. over Lake Bass Canal (PB934254)

Design Reimbursement

City of Lake Worth Beach \$ 19,577.00

**C. Departmental Fiscal Review:**

**III. REVIEW COMMENTS**

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

Robert Lewis 4/14/21  
 OFMB #4521 8:47/21

Dr. J. Anselmi 4/15/21  
 Contract Dev. and Control  
 4-14-21 JW

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

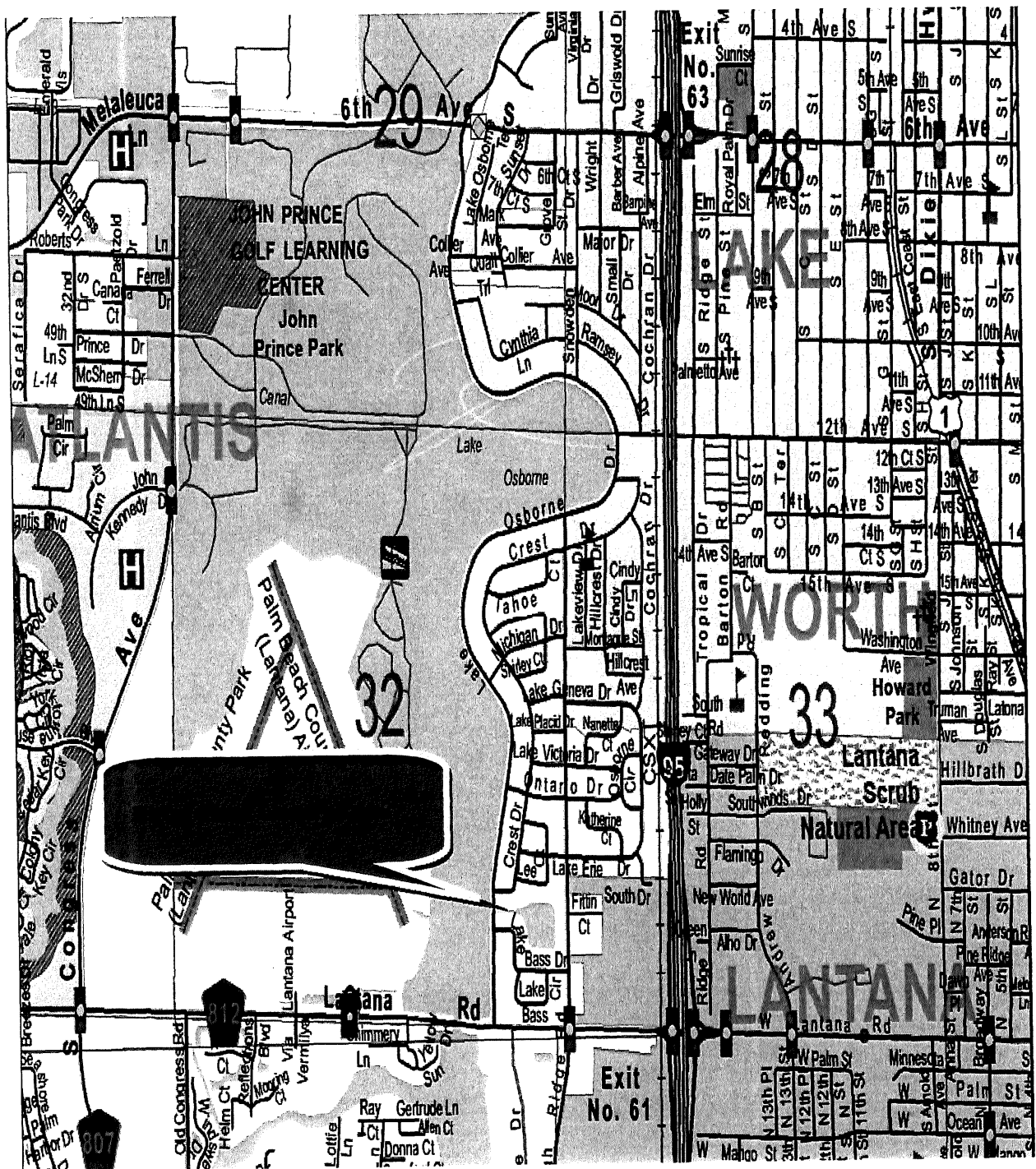
M. B. Herman 4.15.2021  
 Assistant County Attorney

**C. Other Department Review:**

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



PROJECT LOCATION



Lake Osborne Dr. over Lake Bass Canal – Bridge Replacement

LOCATION MAP

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY, FLORIDA  
AND  
LAKE WORTH BEACH, FLORIDA,  
FOR JOINT PARTICIPATION AND PROJECT FUNDING  
FOR DESIGN OF UTILITY ADJUSTMENTS FOR  
LAKE OSBORNE DRIVE OVER LAKE BASS CANAL  
BRIDGE REPLACEMENT  
PALM BEACH COUNTY PROJECT NO. 2017801**

**THIS Interlocal Agreement, (AGREEMENT)** for replacement of the Lake Osborne Bridge over the Lake Bass Canal (PROJECT), is made as of the 1 day of January, 2021, 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 Lake Worth Beach, a municipal corporation existing under the laws of Florida (CITY), each one constituting a public agency defined in Part I of Chapter 163, Florida Statutes (individually Party and collectively Parties).

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

**WHEREAS**, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into Interlocal Agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

**WHEREAS**, the CITY has requested the COUNTY to design water main adjustments to the CITY's system (UTILITY WORK) within the limits of the PROJECT; and

**WHEREAS**, the COUNTY and the CITY desire to jointly participate in the UTILITY WORK; and

**WHEREAS**, the CITY agrees to pay for the cost of the UTILITY WORK; and

**WHEREAS**, both COUNTY and CITY declare that it is in the public interest that the UTILITY WORK be designed with the PROJECT by the County's Consultant, Stantec Consulting Services, Inc. (CONSULTANT); and

**WHEREAS**, both COUNTY and CITY declare that this AGREEMENT serves a valid public purpose.

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

Section 1. Recitals.

The above recitals are true and correct and are incorporated herein.

Section 2. COUNTY Responsibilities:

- A. CONSULTANT has prepared plans for the PROJECT and will prepare the plans for the UTILITY WORK as more specifically described in the Lake Osborne Bridge over the Lake Bass Canal Additional Services Proposal #2 for Palm Beach County Project No. 2017801 (Exhibit "A").
- B. COUNTY shall obtain written approval from the CITY in advance of incurring any cost exceeding the amount in Section 3.A. below. CITY's approval shall not be unreasonably withheld.
- C. COUNTY shall secure all necessary property rights and permits required for the PROJECT and the UTILITY WORK.
- D. COUNTY shall require its CONSULTANT to indemnify the CITY and provide insurance coverage for the CITY to the same extent as is provided to the COUNTY under the COUNTY's agreement with CONSULTANT for the purposes of this AGREEMENT and the CONSULTANT's services being paid for by the CITY.

Section 3. CITY Responsibilities:

- A. CITY shall reimburse COUNTY a total cost of **Nineteen Thousand Five Hundred and Seventy Six Dollars and Seventy Cents (\$19,576.70)**, for all work in Exhibit "A". Any cost exceeding this amount attributable to the UTILITY WORK shall be paid by the CITY, pursuant to section 2. B. above.
- B. Costs shall be based upon actual invoiced cost submitted by CONSULTANT, with concurrence by the CITY.

Section 4. Payments/Invoicing and Reimbursement:

The COUNTY will invoice the CITY on a periodic basis as invoices for the UTILITY WORK accrue. The CITY agrees to provide to COUNTY payment for documented costs for the UTILITY WORK in the amount established in Section 3.A. COUNTY shall submit all invoices to the CITY identifying the UTILITY WORK, including COUNTY'S total expenditure for the PROJECT, and identifying the amount attributable to the UTILITY WORK under Exhibit "A". COUNTY shall supply any further documentation such as copies of paid receipts, canceled checks, invoices and other documents deemed necessary by the CITY within seven (7) calendar days of request by the CITY. Invoices received from COUNTY will be reviewed and approved by the CITY to ensure that expenditures have been made in conformity with this AGREEMENT. Upon COUNTY'S submission of acceptable documents needed to substantiate its costs for the UTILITY WORK, CITY will provide said payment to COUNTY on a reimbursement basis within thirty (30) days of receipt of all required documents. In no event shall the CITY provide advance payment to the COUNTY.

The PROJECT and the UTILITY WORK will be administered by the COUNTY. Only those costs incurred by the COUNTY relating to the UTILITY WORK are eligible for reimbursement by the CITY pursuant to the terms and conditions hereof.

**Section 5. Access and Audits:**

COUNTY and CITY shall maintain adequate records to justify all charges, expenses and costs incurred in performing the PROJECT and the UTILITY WORK for at least five (5) years after completion or termination of this AGREEMENT. Each Party 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 other Parties place of business. 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.

**Section 6. 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.

Neither COUNTY nor the CITY have the power or authority to bind the other in any promise, agreement or representation.

**Section 7. 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 8. Indemnification:**

The CITY and COUNTY recognize their liability for certain tortious acts of its agents, officers, employees and invitees to the extent and limits provided in Section 768.28, Florida Statutes. To the extent permitted by law, the CITY and COUNTY shall indemnify, defend and hold the other harmless against any actions, claims and damages arising out of their own negligence in connection with the PROJECT and the UTILITY WORK and the use of the funds provided under this AGREEMENT. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor shall the same be construed to constitute an agreement by the CITY or COUNTY to indemnify each other for sole negligence, or willful or intentional acts of the other. The foregoing indemnification shall survive termination of this AGREEMENT.

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 CITY.

**Section 9. Annual Appropriation:**

All provisions of this AGREEMENT calling for the expenditure of ad valorem tax money by either the COUNTY or the CITY are subject to annual budgetary funding and should either Party involuntarily fail to fund any of their respective obligations pursuant to the AGREEMENT, this AGREEMENT may be terminated. However, once the design of the UTILITY WORK has been awarded to the CONSULTANT, it shall be prosecuted to completion and this AGREEMENT shall be binding upon the Parties and neither Party shall have the right to terminate the subject AGREEMENT for the reason that sufficient funds are not available.

**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. Enforcement Costs:**

Any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and conditions of this AGREEMENT shall be borne by the respective Parties.

**Section 12. Notice:**

All notices, including requests for approval, required to be given under this AGREEMENT shall be in writing, and deemed sufficient to each Party when sent by United States Mail, postage prepaid, or by hand delivery, to the following:

All notice to the CITY shall be sent to:

City of Lake Worth Beach  
Attn: Brian Shields, P.E. Water Utilities Director  
301 College Street  
Lake Worth Beach, FL 33460

All notice to the COUNTY shall be sent to:

Morton L. Rose, P.E., Director  
Palm Beach County Engineering & Public Works  
Roadway Production Division  
P.O. Box 21229  
West Palm Beach, FL 33416-1229

**Section 13. 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.

**Section 14. Remedies:**

This AGREEMENT shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this AGREEMENT will be held in a court of competent jurisdiction located in Palm Beach County, Florida. 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 15. 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 16. 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 17. Non-Discrimination:**

COUNTY and CITY agree that both Parties shall not conduct business with nor appropriate any funds for any organization or entity that practices discrimination on the basis of race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity or expression, disability, or genetic information. COUNTY will ensure that all contracts let for the PROJECT and the UTILITY WORK pursuant to the terms of this AGREEMENT will contain a similar non-discrimination clause.

**Section 18. Execution:**

This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.



**Section 19. Filing:**

A copy of this AGREEMENT shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

**Section 20. Termination:**

This AGREEMENT may be terminated by either Party upon sixty (60) days prior written notice to the other Party, except as otherwise addressed in this AGREEMENT. However, once the design of the UTILITY WORK has commenced, it shall be prosecuted to completion and this AGREEMENT shall be binding upon the Parties and neither Party shall have the right to terminate the subject AGREEMENT.

**Section 21. 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 agrees to include this provision in all subcontracts issued as a result of this AGREEMENT.

**Section 22. Office of the Inspector General:**

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 contractor, 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.

**Section 23. Public Entity Crime Certification:**

As provided in F.S. 287.132-133, by entering into this AGREEMENT or performing any work in furtherance hereof, COUNTY shall have its CONSULTANT certify that it, its 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 the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3) (a).

**Section 24. Severability:**

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.

Section 25. 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 26. 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 and the UTILITY WORK, shall survive such termination or completion of the PROJECT and the UTILITY WORK and inure to the benefit of the Parties.

Section 27. Term:

The term of this AGREEMENT shall be effective on the date of execution of this AGREEMENT by both Parties.

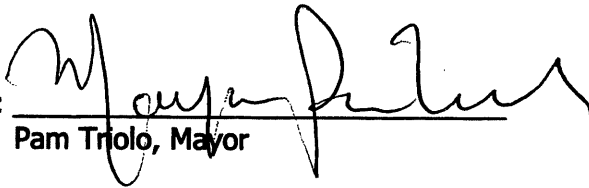
Section 28. E-Verify:

Commencing January 1, 2021, the parties shall comply with Section 448.095(2), Florida Statutes.

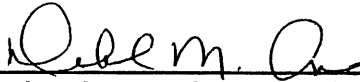
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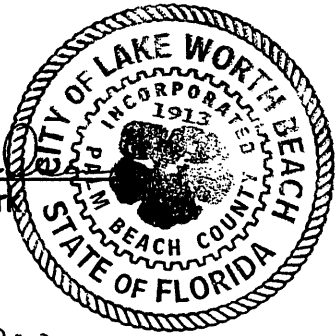
**IN WITNESS WHEREOF**, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and the CITY has hereunto set its hand the day and year above written.

CITY OF LAKE WORTH BEACH

BY:   
Pam Trolo, Mayor

ATTEST:

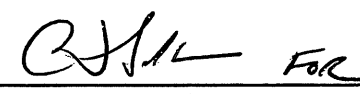
By:   
Deborah M. Andrea, City Clerk

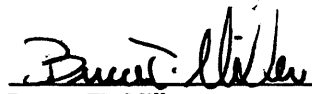


BY: December 1, 2020  
(DATE)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

APPROVED FOR  
FINANCIAL SUFFICIENCY

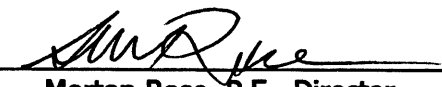

BY:  FOR  
Glen J. Torcivia, City Attorney

BY:   
Bruce T. Miller  
Financial Services Director

**(SIGNATURE PAGES CONTINUED)**

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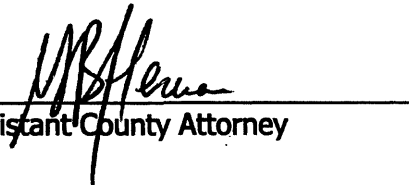
APPROVED AS TO TERMS  
AND CONDITIONS

By:   
Morton Rose, P.E., Director  
Roadway Production Division 

PALM BEACH COUNTY, FLORIDA,

BY:   
Tanya N. McConnell, P.E.,  
Deputy County Engineer

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

BY: ybh   
Assistant County Attorney

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

**FUND Transportation Improvement Fund**

**BGRV 030221-442  
BGEX 030221-978**

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 3/02/21	REMAINING BALANCE
<b>REVENUES</b>								
<b>Lake Osborne Dr. over Lake Bass Canal (PB934354)</b>								
3500-361-1542-6948	Utility Relocation Reimbursements	0	0	19,577	0	19,577		
<b>TOTAL RECEIPTS &amp; BALANCES</b>		190,909,261	184,789,366	19,577	0	184,808,943		
<b>EXPENDITURES</b>								
<b>Lake Osborne Dr. over Lake Bass Canal (PB934354)</b>								
3500-361-1542-8101	Contributions Other Governmental Agencies	0	0	19,577	0	19,577	0	19,577
<b>TOTAL APPROPRIATIONS &amp; EXPENDITURES</b>		190,909,261	184,789,366	19,577	0	184,808,943		

Engineering & Public Works

Administration / Budget Approval

OFMB Department – Posted

SIGNATURE

*Alicia Kovalainen*

DATE

*3/3/2021*

By Board of County Commissioners  
At Meeting of \_\_\_\_\_

Deputy Clerk to the  
Board of County Commissioners