

PROPOSED

ORDINANCE NO. 2016-

1 AN ORDINANCE OF THE BOARD OF COUNTY
2 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
3 RELATING TO A CHARTER COUNTY AND REGIONAL
4 TRANSPORTATION SYSTEM SALES SURTAX
5 ("TRANSPORTATION SURTAX"); CREATING ARTICLE V
6 OF CHAPTER 31½ OF THE BROWARD COUNTY CODE OF
7 ORDINANCES ("CODE") FOR THE PURPOSE OF
8 LEVYING, SUBJECT TO APPROVAL BY REFERENDUM, A
9 ONE PERCENT (1%) TRANSPORTATION SURTAX FOR A
10 PERIOD OF THIRTY (30) YEARS; CREATING A
11 SEGREGATED TRUST FUND INTO WHICH ALL
12 TRANSPORTATION SURTAX PROCEEDS SHALL BE
13 DEPOSITED; PROVIDING FOR THE ESTABLISHMENT OF
14 A TRANSPORTATION SURTAX OVERSIGHT BOARD TO
15 OVERSEE THE USE OF TRANSPORTATION SURTAX
16 PROCEEDS FOR AUTHORIZED TRANSPORTATION AND
17 TRANSIT PURPOSES; AND PROVIDING FOR
18 AMENDMENTS, SEVERABILITY, INCLUSION IN THE
19 CODE, AND AN EFFECTIVE DATE.

20 (Sponsored by the Board of County Commissioners)

21 WHEREAS, Section 212.055(1), Florida Statutes, provides for the levy of a Charter
22 County and Regional Transportation System Sales Surtax ("Transportation Surtax") by
23 enactment of an ordinance by a majority of the members of the Board of County
24 Commissioners of Broward County, Florida ("Board"), subject to approval by a majority of
the electors of Broward County voting in a referendum election on the Transportation
Surtax; and

WHEREAS, if the levy of the Transportation Surtax is approved by referendum at
the General Election on November 8, 2016, the proceeds of the Transportation Surtax
shall be expended for transportation and transit purposes authorized in
Section 212.055(1)(d), Florida Statutes, including (1) for the planning, development,
operation, and maintenance of roads and bridges, bus systems, fixed guideway rapid

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1 transit systems, and on-demand transportation services; (2) for the payment of principal
2 and interest on bonds issued for authorized transportation and transit projects; and (3) as
3 a pledge for bonds issued for such authorized transportation and transit projects, with
4 oversight of expenditures by an independent Transportation Surtax Oversight Board; and

5 WHEREAS, in furtherance of funding critical transportation and transit needs for the
6 benefit of present and future generations, the levy of the Transportation Surtax shall
7 remain in effect for a period of thirty (30) years ending on December 31, 2046, at which
8 time the Transportation Surtax shall automatically sunset and expire,

9
10 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
11 BROWARD COUNTY, FLORIDA:

12
13 Section 1. Article V of Chapter 31½ of the Broward County Code of
14 Ordinances is hereby created to read as follows:

15 [Underlining omitted]

16 **ARTICLE V. BROWARD COUNTY TRANSPORTATION SURTAX**

17
18 Section 2. Section 31½-71 of the Broward County Code of Ordinances is
19 hereby created to read as follows:

20 **Sec. 31½-71. Short title.**

21 This article shall be known and may be cited as the "Broward County
22 Transportation Surtax Ordinance."

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1 Section 3. Section 31½-72 of the Broward County Code of Ordinances is
2 hereby created to read as follows:

3 **Sec. 31½-72. Levy of Transportation Surtax.**

4 Pursuant to Section 212.055(1), Florida Statutes, and subject to approval by a
5 majority of the qualified electors of Broward County voting in a referendum at the
6 General Election on November 8, 2016, there is hereby levied, for a period of thirty (30)
7 years, commencing at 12:01.m. on January 1, 2017, and expiring at 11:59 p.m. on
8 December 31, 2046, a one percent (1%) Charter County and Regional Transportation
9 System Sales Surtax ("Transportation Surtax") on all transactions taxable pursuant to
10 Section 212.054(2), Florida Statutes, including the first five thousand dollars (\$5,000) of
11 the sales amount of any items of tangible personal property, subject to certain exceptions
12 as further provided by Florida law.

13
14 Section 4. Section 31½-73 of the Broward County Code of Ordinances is
15 hereby created to read as follows:

16 **Sec. 31½-73. Transportation Surtax Trust Fund.**

17 There is hereby created the Broward County Transportation Surtax Trust Fund
18 ("Trust Fund") into which all Transportation Surtax proceeds shall be deposited. Broward
19 County is authorized to establish accounts and subaccounts within the Trust Fund as may
20 be necessary or useful for administering the Transportation Surtax proceeds in compliance
21 with all legal requirements. Broward County is authorized and directed to take such
22 additional steps as necessary or useful under generally accepted governmental
23 accounting principles to ensure that balances in the accounts and subaccounts of the
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1 Trust Fund at the end of each fiscal year carry forward to the subsequent fiscal year. The
2 designation and establishment of the Trust Fund, and the various accounts and
3 subaccounts therein, shall be in keeping with generally accepted governmental accounting
4 principles. Cash and investments required to be accounted for in the Trust Fund may not
5 be comingled with any other funds, including other transportation or transit funds.

6
7 Section 5. Section 31½-74 of the Broward County Code of Ordinances is
8 hereby created to read as follows:

9 **Sec. 31½-74. Use of Transportation Surtax proceeds.**

10 Transportation Surtax proceeds shall be collected, allocated, disbursed, and
11 expended for authorized transportation and transit purposes, in accordance with
12 Sections 212.054 and 212.055(1), Florida Statutes, and any applicable interlocal
13 agreements.

14
15 Section 6. Section 31½-75 of the Broward County Code of Ordinances is
16 hereby created to read as follows:

17 **Sec. 31½-75. Transportation Surtax Oversight Board.**

18 To ensure accountability, objectivity, and transparency in the distribution and
19 expenditure of Transportation Surtax proceeds, there is hereby established an
20 independent Transportation Surtax Oversight Board to review and approve proposed
21 transportation projects funded, in whole or part, with Transportation Surtax proceeds, for
22 consistency with the requirements of Section 212.055(1), Florida Statutes, and any
23 applicable interlocal agreements. Transportation projects shall be funded with
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1 Transportation Surtax proceeds as approved by the Transportation Surtax Oversight
2 Board.

3 Section 7. AMENDMENTS. The Board may amend, revise, or repeal this
4 Transportation Surtax Ordinance in the manner provided by law. However, no repeal,
5 amendment, or revision of this Transportation Surtax Ordinance, or reduction in the rate
6 of the Transportation Surtax, may take effect if it would materially impair the contract
7 rights of the owners of any bonds, notes, or other instruments of indebtedness payable
8 in whole or in part, directly or indirectly, from the proceeds of the Transportation Surtax.

9
10 Section 8. SEVERABILITY.

11 If any portion of this Ordinance is determined by any Court to be invalid, the
12 invalid portion shall be stricken, and such striking shall not affect the validity of the
13 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
14 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
15 or circumstance(s), such determination shall not affect the applicability hereof to any
16 other individual, group, entity, property, or circumstance.

17
18 Section 9. INCLUSION IN CODE.

19 It is the intention of the Board of County Commissioners that the provisions of
20 this Ordinance shall become and be made a part of the Broward County Code; and that
21 the sections of this Ordinance may be renumbered or relettered and the word
22 "ordinance" may be changed to "section," "article," or such other appropriate word or
23 phrase in order to accomplish such intentions.

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1 Section 10. EFFECTIVE DATE.

2 (a) This Ordinance shall become effective as provided by law.

3 (b) Repeal Upon Electorate Disapproval. If the levy of the Transportation
4 Surtax is not approved by a majority of the electors of Broward County voting in the
5 referendum at the General Election on November 8, 2016, this Transportation Surtax
6 Ordinance shall expire and be deemed repealed in its entirety on December 31, 2016,
7 without further action by the Board.

8 (c) Sunset. Except as provided in Section 10(b) above, the Transportation
9 Surtax shall "sunset" and expire on December 31, 2046, at 11:59 p.m., without further
10 action by the Board, at which time the Transportation Surtax levied hereunder shall be
11 deemed repealed, terminated, and of no further force and effect, except that the
12 requirements of this Ordinance and any interlocal agreements relating to the
13 administration, use, or oversight of Transportation Surtax proceeds shall survive the
14 expiration of the Transportation Surtax, and shall be fully enforceable in a court of
15 competent jurisdiction.

16 ENACTED

17 FILED WITH THE DEPARTMENT OF STATE

18 EFFECTIVE

PROPOSED

19
20 Approved as to form and legal sufficiency:
Joni Armstrong Coffey, County Attorney

21 By /s/ James D. Rowlee 04/28/16
22 James D. Rowlee (date)
23 Senior Assistant County Attorney

24 JDR/dnt
04/28/16
Transportation Surtax
16-412.00

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