

PROPOSED

ORDINANCE NO. 2016-

1 AN ORDINANCE OF THE BOARD OF COUNTY
 2 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
 3 RELATING TO THE CHARTER COUNTY AND REGIONAL
 4 TRANSPORTATION SYSTEM SALES SURTAX
 5 ("TRANSPORTATION SURTAX"); AMENDING BROWARD
 6 COUNTY ORDINANCE NO. 2016-14 RELATING TO
 7 ARTICLE V OF CHAPTER 31½ OF THE BROWARD
 8 COUNTY CODE OF ORDINANCES ("CODE"), FOR THE
 9 PURPOSE OF CONFORMING THE RATE AND DURATION
 10 OF THE TRANSPORTATION SURTAX TO THE TERMS OF
 11 THE TRANSPORTATION SYSTEM AND
 12 INFRASTRUCTURE SURTAXES INTERLOCAL
 13 AGREEMENT AND TRANSPORTATION SURTAX
 14 RESOLUTION NO. 2016-347; LEVYING, SUBJECT TO
 15 APPROVAL BY REFERENDUM, A ONE-HALF PERCENT
 16 (0.5%) TRANSPORTATION SURTAX FOR A PERIOD OF
 17 THIRTY (30) YEARS; PROVIDING FOR THE
 18 TRANSPORTATION SURTAX OVERSIGHT BOARD TO
 19 OVERSEE THE USE OF TRANSPORTATION SURTAX
 20 PROCEEDS; AND PROVIDING FOR SEVERABILITY,
 21 INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

22 (Sponsored by the Board of County Commissioners)

23 WHEREAS, on May 24, 2016, the Board of County Commissioners of Broward
 24 County, Florida ("Board"), enacted Ordinance No. 2016-14 (the "Transportation Surtax
 Ordinance") levying, subject to approval by countywide referendum, a Charter County and
 Regional Transportation System Sales Surtax ("Transportation Surtax") at a rate of
 three-quarters of one percent (0.75%) for a period of twenty (20) years; and

WHEREAS, following enactment of the Transportation Surtax Ordinance, Broward
 County and Broward municipalities representing a majority of Broward County's population
 ("Municipalities") negotiated a Transportation System and Infrastructure Surtaxes
 Interlocal Agreement ("ILA") which, among other things, provides for the scheduling of a
 referendum election on the levy of a 30-year, one-half percent (0.5%) Transportation

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1 Surtax and for certain aspects of administration of such Transportation Surtax if approved
2 by referendum; and

3 WHEREAS, on June 22, 2016, the Board adopted Resolution No. 2016-347
4 ("Transportation Surtax Resolution"), scheduling a referendum election to be held at the
5 General Election on November 8, 2016, for the purpose of enabling the electorate to
6 determine whether a one-half percent (0.5%) Transportation Surtax for a period of thirty
7 (30) years should be levied; and

8 WHEREAS, the Board desires to amend the Transportation Surtax Ordinance to
9 conform to the ILA and Transportation Surtax Resolution,

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

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

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

17 ...

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

19 Pursuant to Section 212.055(1), Florida Statutes, and subject to approval by a
20 majority of the qualified electors of Broward County voting in a referendum at the
21 General Election on November 8, 2016 ("Ballot Measure"), there is hereby levied, for a
22 period of ~~twenty (20)~~ thirty (30) years, commencing at 12:01 a.m. on January 1, 2017, and
23 expiring at 11:59 p.m. on December 31, ~~2036~~ 2046, a ~~three-quarters of one-half~~ percent
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1 (~~0.75%~~) (0.5%) Charter County and Regional Transportation System Sales Surtax
2 ("Transportation Surtax") on all transactions taxable pursuant to Section 212.054(2),
3 Florida Statutes, including the first five thousand dollars (\$5,000) of the sales amount of
4 any items of tangible personal property, subject to certain exceptions as further provided
5 by Florida law.

6 ...

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

8 Transportation Surtax proceeds shall be collected, allocated, disbursed, and
9 expended for authorized transportation and transit purposes, in accordance with
10 Sections 212.054 and 212.055(1), Florida Statutes, ~~and any applicable interlocal~~
11 ~~agreements~~ the Transportation System and Infrastructure Surtaxes Interlocal Agreement
12 ("ILA") between Broward County and Broward municipalities, and the Ballot Measure. A
13 copy of the ILA shall be kept on file and available for inspection during regular business
14 hours in the Broward County Office of Management and Budget.

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

16 (a) To ensure accountability, objectivity, and transparency in the expenditure of
17 Transportation Surtax proceeds, ~~there is hereby established~~ the ILA establishes an
18 independent Transportation and Infrastructure Surtax Oversight Board (the "Oversight
19 Board"). The Oversight Review Board shall ~~to~~ review and approve proposed
20 transportation projects funded, in whole or part, with Transportation Surtax proceeds, for
21 consistency with the requirements of Section 212.055(1), Florida Statutes, and the ILA.
22 Transportation projects shall be funded with Transportation Surtax proceeds as
23 approved by the Oversight Board.

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1 (a) Composition. ~~The Oversight Board shall be comprised of the following~~
2 ~~nine (9) members: one (1) professional in each of the following fields: accounting,~~
3 ~~finance, land use or urban planner, law, engineering or construction management,~~
4 ~~architecture, and environmental science; one former elected official; and one former city~~
5 ~~or county manager. None of the members shall, at any time during their term, be an~~
6 ~~elected official or have an employment or contractual relationship with, or be employed~~
7 ~~by any entity that has a contractual relationship with, Broward County. The following~~
8 ~~five (5) persons (collectively, the "Appointing Authority"), none of whom may be a~~
9 ~~current elected official, shall, based on procedures established by majority vote, make~~
10 ~~nominations for members and shall, also by majority vote, appoint members on or~~
11 ~~before May 1, 2017 (any designee may be removed and replaced at any time by the~~
12 ~~designator):~~

13 1. ~~The Secretary of the Florida Department of Transportation, District 4, or~~
14 ~~an employee of District 4 designated by the Secretary;~~

15 2. ~~The designee of the Broward Workshop;~~

16 3. ~~The designee of the Broward County Council of Chambers (of~~
17 ~~Commerce);~~

18 4. ~~The Broward County Auditor, or the Auditor's designee; and~~

19 5. ~~The Director of the Florida Atlantic University Center for Environmental~~
20 ~~Studies, or such person's designee.~~

21 (b) Term of Oversight Board Members. ~~Oversight Board members shall serve~~
22 ~~four-year terms and may be reappointed for successive terms. Members may be~~
23 ~~removed for good cause determined by supermajority vote of the Appointing Authority,~~
24

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1 and may be removed by a majority vote of the Appointing Authority if the member no
2 longer meets the qualifications for membership. Any member appointed to replace a
3 member who has been removed or who resigns shall serve for the balance of the term
4 of such member. The Appointing Authority shall meet as required to appoint or remove
5 members.

6 (e) Oversight Board Meetings. The Oversight Board shall meet quarterly.
7 The members shall elect a chairperson to preside over meetings. The Oversight Board
8 shall establish its own rules of procedure for conducting its meetings.

9 (d) Staffing. Broward County shall provide sufficient staff to enable the
10 Oversight Board to efficiently perform its functions, and shall retain such consultants as
11 the Oversight Board determines necessary to perform its responsibilities.

12 (e) Approval of Projects. All applications for projects funded by
13 Transportation Surtax proceeds shall be submitted to the Oversight Board, which shall
14 determine whether the project, as described in the project application, is permissible
15 under Section 212.055(1)(d)(4). If the Oversight Board determines that it is permissible,
16 the Oversight Board shall approve the project and shall send written notice thereof to
17 Broward County Administrator. If an approved project is only partially fundable with
18 Transportation Surtax proceeds pursuant to Section 212.055(1)(d)(4), the Oversight
19 Board's written approval shall identify those portions of the project fundable with
20 Transportation Surtax proceeds and shall state the total dollar value of those portions.
21 The written notice of approval may contain recommendations made by the Oversight
22 Board regarding best practices or other methods that may be employed to improve the
23 project. If the Oversight Board determines that a proposed project is not permissible
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1 under Section 212.055(1)(d)(4), Florida Statutes, the Oversight Board shall reject the
2 project and shall, in writing, specify the reasons why the project was rejected. Rejected
3 projects may be modified and resubmitted for subsequent consideration by the
4 Oversight Board. The Oversight Board shall issue its written notice of project approval
5 or rejection within one hundred twenty (120) days of its receipt of a completed project
6 application.

7 (f) Project Oversight. All approved projects shall be subject to the Oversight
8 Board's review, critique, and analysis for the duration of the project. The Oversight
9 Board shall issue annual reports on the performance of ongoing projects and shall
10 provide recommendations for any proposed performance improvements.

11 (g) (b) Annual Audits. Broward County shall retain an independent certified
12 public accountant to perform and complete an Annual audits of all projects approved
13 by the Oversight Board and of all Transportation Surtax proceeds received, maintained,
14 and expended shall be performed in accordance with the ILA.

15 ...

16
17 Section 2. SEVERABILITY.

18 If any portion of this Ordinance is determined by any Court to be invalid, the
19 invalid portion shall be stricken, and such striking shall not affect the validity of the
20 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
21 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
22 or circumstance(s), such determination shall not affect the applicability hereof to any
23 other individual, group, entity, property, or circumstance.

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1 Section 3. INCLUSION IN CODE.

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

7
8 Section 4. Section 10 of Ordinance No. 2016-14 is hereby amended to read
9 as follows:

10
11 Section 10. EFFECTIVE DATE.

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

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

18 (c) Sunset. Except as provided in Section 10(b) above, the Transportation
19 Surtax shall "sunset" and expire on December 31, ~~2036~~ 2046, at 11:59 p.m., without
20 further action by the Board, at which time the Transportation Surtax levied hereunder
21 shall be deemed repealed, terminated, and of no further force and effect, except that the
22 requirements of this Ordinance and any interlocal agreements relating to the
23 administration, use, or oversight of Transportation Surtax proceeds shall survive the
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1 expiration of the Transportation Surtax, and shall be fully enforceable in a court of
2 competent jurisdiction.

3
4 ENACTED

5 FILED WITH THE DEPARTMENT OF STATE

6 EFFECTIVE
7
8
9

10 Approved as to form and legal sufficiency:
11 Joni Armstrong Coffey, County Attorney

PROPOSED

12
13 By /s/ James D. Rowlee 10/11/16
14 James D. Rowlee (date)
15 Senior Assistant County Attorney
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23 JDR/dnt
10/11/16
24 Transportation Surtax
16-426.00

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