PROPOSED

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO TRANSPORTATION SURTAX OVERSIGHT AND ADMINISTRATION; AMENDING SECTION 31½-75 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO MODIFY TRANSPORTATION SURTAX OVERSIGHT BOARD MEMBERSHIP AND QUALIFICATIONS, TRANSPORTATION SURTAX OVERSIGHT BOARD APPOINTING AUTHORITY MEMBERSHIP, MUNICIPAL PROJECT FUNDING PROCEDURES, AND OVERSIGHT AND AUDIT REQUIREMENTS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, Section 31½-75 of the Broward County Code of Ordinances ("Code") establishes the Transportation Surtax Oversight Board ("Oversight Board"), identifies the membership of the Transportation Surtax Oversight Board Appointing Authority ("Appointing Authority"), and establishes requirements and procedures relating to the administration and oversight of Transportation Surtax proceeds;

WHEREAS, the County and participating municipalities have established, through various revisions to the Transportation System Surtax Interlocal Agreement, as amended ("System ILA"), procedures governing the submission, evaluation, funding, and administration of municipal projects funded with Transportation Surtax proceeds, and the Broward County Board of Commissioners ("Commission") desires to conform applicable

provisions of the Code to those procedures and eliminate obsolete or duplicative requirements; and

WHEREAS, the Commission desires to update and clarify provisions of the Code regarding membership on the Appointing Authority and Oversight Board for consistency with applicable law, to conform applicable provisions of the Code to the System ILA, and to update provisions relating to Oversight Board review of proposed projects and expenditures, project oversight, and auditing of Transportation Surtax proceeds to promote the efficient administration and oversight of the Transportation Surtax program,

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

Section 1. Section 31½-75 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 31½-75. Independent Transportation Surtax Oversight Board.

To ensure accountability and transparency in the expenditure of Transportation Surtax proceeds, there is hereby established an independent Transportation Surtax Oversight Board ("Oversight Board"). ~~The Oversight Board shall review and approve a~~All proposed expenditures of Transportation Surtax proceeds ~~to ensure~~ must be presented to the Oversight Board for review regarding consistency with the requirements of Section 212.055(1)(d), Florida Statutes, and any applicable System ILA (as hereinafter defined). No expenditure of Transportation Surtax proceeds may be made unless such expenditure has been ~~approved~~ presented and reviewed by the Oversight Board.

(a) *Composition.* The Oversight Board shall be composed of the following nine (9) members:

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.

(1) One professional in the field of accounting - A person who holds~~,~~ or ~~within the past three years~~ has held~~,~~ a license in the State of Florida or any other state to practice public accounting, or a person who is practicing~~,~~ or, within the past three years, has practiced, public accounting in ~~this~~ the ~~s~~State of Florida pursuant to the practice privilege granted in Section 473.3141, Florida Statutes, and who has never had any such privilege or license revoked or permanently suspended;

(2) One professional in the field of finance - A person who holds a professional degree in and has practical experience in finance or banking;

(3) One professional in the field of land use or urban planning - A person who holds a professional degree and has practical experience in land use or urban planning;

(4) One professional in the field of engineering or construction management - A person who holds~~,~~ or ~~within the past three years~~ has held~~,~~ a license in the State of Florida to engage in the practice of engineering as defined in Section 471.005, Florida Statutes, or has held such a license in any other state, or a person who is currently a construction management professional who is, or within the past three years, has been~~,~~ a licensed general contractor or a licensed building contractor in the State of Florida, as such licenses are defined in Section 489.105, Florida Statutes, and who has never had any such license revoked or permanently suspended;

(5) One professional in the field of architecture - A person who holds~~,~~ or ~~within the past three years~~ has held~~,~~ a license to engage in the practice of

architecture in the State of Florida pursuant to Section 481.213, Florida Statutes, or in any other state, and who has never had any such license revoked or permanently suspended;

(6) One professional in the field of environmental science - A person who holds a professional degree in and has practical experience in environmental science;

(7) One resident consumer of public transportation - A person who resides in Broward County and is a user of the multimodal transportation system;

(8) One former city or county manager - A person who ~~holds a professional degree,~~ has professional experience as a city manager or a county manager, and is not currently employed as a city manager or a county manager in the state; and

(9) One ~~president of a public~~ individual employed by an institution of higher education with a geographic presence in Broward County, ~~or such person's designee provided the designee has~~ with knowledge of, and academic or professional experience in, supplier and vendor relations ~~and diversity,~~ transportation or urban planning, civil engineering, public finance, capital construction projects, or another relevant professional or academic field.

(b) *Other Qualifications.* No member of the Oversight Board shall, at any time during his or her term, (i) be an elected official; (ii) have an employment or contractual relationship with Broward County; (iii) be employed by any entity, other than a nonprofit entity, college or university, state agency, federal agency, or independent constitutional office, that has a contractual relationship with Broward County; or (iv) be employed by

any recipient of Transportation Surtax proceeds or any entity that has submitted or has announced or indicated an intend~~d~~st to submit an application for Transportation Surtax proceeds funding during the current, prior, or next fiscal year ~~(including, but not limited to, any receipt of funding or application submitted by municipalities within Broward County or by the Broward Metropolitan Planning Organization ("Broward MPO"))~~.

(c) *Appointing Authority.* The following seven (7) persons (collectively, the "Appointing Authority"), none of whom may be a current elected official, shall, based on procedures established by majority vote, make nominations for members of the Oversight Board and shall, also by majority vote, appoint the nine (9) members of the Oversight Board ~~on or before January 1, 2019 (any designee may be removed and replaced at any time by the designor)~~:

(1) The designee of the Broward Workshop;

(2) The designee of the ~~Broward County Council of Chambers (of Commerce)~~ Greater Fort Lauderdale Alliance;

(3) The ~~Broward~~ County Administrator or the Administrator's designee;

(4) The Director of the ~~Florida Center for Environmental Studies~~ School of Environmental, Coastal, and Ocean Sustainability (or its successor entity) at Florida Atlantic University or such person's designee;

(5) The President/CEO of the ~~Urban League~~ United Way of Broward County or such person's designee;

(6) The President/CEO of ~~Hispanic Unity of Florida in Broward County~~ CareerSource Broward or such person's designee; and

(7) The designee of the Broward League of Cities.

(d) *Term of Oversight Board Members.* Oversight Board members shall serve four-year terms and may be reappointed for successive terms.

(1) *Process for filling vacancies.* The Appointing Authority shall determine the documentation required for applications to the Oversight Board.

(2) *Removal.*

a. A member of the Oversight Board may be removed as follows:

1. By vote of a majority of the then-serving members of the Appointing Authority plus one (1), for good cause; or

2. ~~determined b~~By a ~~super~~majority vote of the then-serving members of the Appointing Authority, ~~and shall be removed by a majority vote of the Appointing Authority~~ if the member no longer meets the applicable categorical requirement or qualifications for membership.

b. The effective date of removal of the member from the Oversight Board shall be the earliest of the following, to the extent applicable:

1. The date provided in the member's resignation; or

2. The date provided in the Appointing Authority written notice of removal of the member ~~by the Appointing Authority~~.

. . .

(h) *Applications for Funding.*

(1) *Eligible Municipal ~~Capital~~ Projects.* Municipalities in Broward County may submit written applications ~~to the Broward MPO~~ and requests for Transportation Surtax proceeds to fund statutorily eligible ~~capital~~ projects

~~(projects that do not involve rehabilitation or maintenance of roads), including but not limited to projects for new roads, widening existing roads, traffic calming improvements, transportation-related ADA accommodations, sidewalks, bike paths, and bridges. Each project application must specify the amount of funds requested, how funds are intended to be expended, and any other data requested by staff to evaluate the project. Municipal capital projects included in the Regional Mobility & Transportation Enhancements Surtax Initiative ("Transportation Surtax Plan"), approved by the Board of County Commissioners of Broward County ("County Commission") on September 13, 2018, will be the first to be evaluated and ranked. Applications for new municipal capital projects will be accepted by the Broward MPO beginning in February 2021~~ and on-demand transportation services in the manner prescribed in the then-applicable Transportation System Surtax Interlocal Agreement entered into between Broward County and participating municipalities ("System ILA").

~~(2) *Municipal Rehabilitation and Maintenance Projects*. Municipal rehabilitation and maintenance projects were included in the Transportation Surtax Plan and are subject to ranking by County staff using a written, objective process that will be vetted with municipal stakeholders prior to implementation. These projects, to the extent eligible for funding and in the order of ranking, will be funded from any excess Transportation Surtax proceeds that County staff identifies annually, in writing, as being available for municipal rehabilitation and maintenance projects, after consideration, consistent with~~

~~the terms of all applicable interlocal agreements, of the surtax-funded Broward MPO staff recommended municipal capital projects. New municipal rehabilitation and maintenance projects (those not included in the Transportation Surtax Plan) may be submitted to the County for review and ranking after February 2021, and will be considered for funding, subject to surtax revenue availability for those projects, as determined by the County Commission.~~

~~(3)~~ (2) *Five-Year Plan.* By July 1, 2020, a five-year plan will be developed by County staff, with input from surtax-funded Broward MPO staff, and shall include all projects proposed to be funded in whole or in any part by Transportation Surtax proceeds during the applicable five-year period. Once acted upon by both the Oversight Board and the Board of County Commissioners of Broward County ("County Commission"), and subject to any further consideration by the County Commission, this five-year plan will act as the basis for funding and project delivery. New or amended projects may be added to, and projects may at the request of the applicable municipality be deleted from, the five-year plan on an annual basis that coincides with the budget process ~~and as further defined in the Interlocal Agreement between the Broward MPO and Broward County related to prioritization of municipal projects~~. The prioritized list of projects, the five-year plan, and annual updates to the five-year plan will be considered by the Oversight Board as addressed below.

~~(4)~~ (3) ~~*Project-Specific Interlocal*~~ *Annual Agreements.* In order to receive Transportation Surtax proceeds ~~for a permissible project~~, the municipality must execute ~~a project-specific interlocal~~ one or more annual agreements with the County ~~that includes the following elements~~ consistent with the terms of the then-applicable System ILA, including but not limited to:

a. An obligation by the municipality to maintain a separate account for Transportation Surtax proceeds, which account is subject to County and Oversight Board audit;

b. A requirement by ~~T~~the municipality that projects ~~is~~ are subject to County and Oversight Board performance review and audit;

c. A commitment by the municipality to provide for the maintenance and operation of the project, throughout the useful life of the project~~, from non-surtax, municipal funds~~;

d. A minimum of a thirty percent (30%) County Business Enterprise (CBE) commitment ~~to the extent funded with Transportation Surtax proceeds~~ goal based on the Transportation Surtax proceeds awarded for the project, subject to the availability of subcontracting opportunities, the availability of subcontractors, and consideration of good faith efforts to meet such commitment goal consistent with the County's CBE program, except that no CBE commitment goal shall apply to agreements that are subject to other participation goals (e.g., federal DBE program or SBE reserves), agreements that are expressly exempt from the County's Procurement Code, agreements

that are otherwise ineligible by state or federal law, and agreements to which goals are not assigned by the County (e.g., sole source, sole brand, and emergency agreements);

e. To decrease public inconvenience and to facilitate the expeditious and efficient completion of Transportation Surtax-funded County projects that occur, in whole or in part, within a municipality, the agreement shall contain appropriate language addressing potential waiver of municipal permitting and fees on terms and conditions mutually agreed to by the County and the municipality, which terms and conditions shall address (i) which entity shall be responsible for ensuring adequate plan review and inspection and (ii) the applicable standard for completion of work in the public rights-of-way (e.g., compliance with County Minimum Standards, the Florida Building Code, or potentially some other standard when dealing with projects affecting municipal-owned utilities);

f. The collection and provision of reasonable project performance data, measures, and deliverables prescribed by ~~the Oversight Board or~~ the County to determine whether established objectives of the Transportation Surtax (including increasing connectivity and reducing traffic congestion) are being met;

g. Reasonable branding and marketing, including but not limited to through signage, prominently acknowledging the surtax funding (which shall include County-selected wording, logo, or other

imagery) and the project contributions of the County and municipality;

h. The option for the County to place sensors and other devices on municipal properties and assets for County-approved applications for mobility-related data collection purposes, as mutually agreed to by the County and the municipality, which placement shall not unreasonably interfere with the municipality's use of such properties or assets; and

i. A requirement for the municipality to timely provide to the County all data available to the municipality regarding the location and impact of any municipal road closures, including but not limited to closures resulting from construction or flooding, in a format prescribed by the County.

~~(5) *MPO Review Process.* With regard to proposed municipal capital projects (projects that do not involve rehabilitation or maintenance of roads) that a municipality requests be funded with Transportation Surtax proceeds, Broward MPO staff will review the project and shall:~~

~~a. Indicate their acceptance of the project application without modification, and proceed to rank and prioritize the project application; or~~

~~b. With the concurrence of the Office of the County Attorney (which may not be granted prior to consultation with the municipality's legal counsel), notify the municipality that staff will not consider the project~~

~~application because it is not eligible for funding under an applicable contractual or statutory provision; or~~

~~c. Return the project application to the municipality with proposed revisions, and, after receipt of the municipality's resubmitted application, proceed either to rank and prioritize the project application per subsection a. above, or notify the municipality that staff will not consider the project application per subsection b. above.~~

~~(6)~~ (4) *County Staff Review Process.* With regard to proposed eligible municipal projects ~~that involve rehabilitation or maintenance of roads~~ and on-demand transportation services that a municipality requests be funded with Transportation Surtax proceeds, County staff will review that project ~~and shall:~~ in the manner set forth in the then-applicable System ILA.

~~a. Indicate their acceptance of the project application without modification, and proceed to rank and prioritize the project application; or~~

~~b. With the concurrence of the Office of the County Attorney (which may not be granted prior to consultation with the municipality's legal counsel), notify the municipality that staff will not consider the project application because it is not eligible for funding under an applicable contractual or statutory provision; or~~

~~c. Return the project application to the municipality with proposed revisions, and after receipt of the municipality's resubmitted application, proceed either to rank and prioritize the project~~

~~application per subsection a. above, or notify the municipality that staff will not consider the project application per subsection b. above.~~

(i) ~~*Approval of* Proposed Projects and *Proposed* Expenditures.~~

(1) County staff assigned to support the Oversight Board shall at least annually compile all County and municipal proposed projects and proposed expenditures that will be considered for funding with Transportation Surtax proceeds, consistent with budgetary recommendations, and present them to the Oversight Board ~~for approval as to statutory eligibility. The Oversight Board shall consider proposed projects and proposed expenditures submitted by the County only for eligibility under Section 212.055(1)(d), Florida Statutes, with due consideration given to the opinion of the Transportation Surtax General Counsel to the extent the applicable eligibility determination involves a question of statutory construction~~.

~~a. Oversight Board determines that a proposed project or proposed expenditures are statutorily eligible, the Oversight Board shall send written notice thereof to the Broward County Administrator, which written notice may contain~~ <u>County and municipal proposed projects and expenditures included in the County Administrator's proposed budget will be presented to the Oversight Board for discussion. The Oversight Board may, by majority vote, submit to the County Administrator written</u> recommendations ~~made by the Oversight Board~~ regarding best practices or other methods that may be employed to improve a proposed project or proposed expenditures.

~~b. If the Oversight Board determines that only a proposed project or proposed expenditures only partially fundable with Transportation Surtax proceeds, the Oversight Board's written notice to the Broward County Administrator shall identify those portions of the proposed project or proposed expenditures the Oversight Board determines are fundable with Transportation Surtax proceeds.~~

~~c. If the Oversight Board determines that a proposed project or proposed expenditures are not eligible for funding with Transportation Surtax proceeds, the Oversight Board shall, in writing, specify the reasons for such determination. Such proposed project and proposed expenditures may be modified and resubmitted to the County for its consideration and, if applicable, for reconsideration by the Oversight Board.~~

~~d.~~ The Oversight Board shall issue ~~its~~ any such written ~~notice~~ recommendations regarding ~~statutory eligibility of~~ proposed projects and expenditures to the County Administrator no later than thirty (30) days after the meeting during which the proposed project~~s~~ and proposed expenditures were considered ~~(or, for resubmitted projects, reconsidered)~~.

(2) After the ~~Broward~~ County Administrator receives the Oversight Board's written ~~notice regarding eligibility~~ recommendations as provided in Section 1 above, the proposed projects and proposed expenditures will be

presented by the ~~Broward~~ County Administrator to the County Commission for its consideration.

(3) The County Commission, consistent with the terms, conditions, and restrictions of any then-applicable interlocal agreements, and after considering the recommendations of County staff ~~and Surtax-funded Broward MPO staff, as applicable~~, will determine which proposed projects and proposed expenditures of Transportation Surtax proceeds are approved by the County Commission, and those projects and expenditures will be included in the County's annual budget.

(j) *Project Oversight.* All County and municipal projects and expenditures funded with Transportation Surtax proceeds shall be subject to the Oversight Board's review, critique, and assessment for the duration of the projects or expenditures. The Oversight Board shall issue reports on the performance of ongoing projects and shall provide recommendations to the ~~Broward~~ County Administrator and the County Commission for any proposed performance improvements.

(k) *Audits.* The ~~Oversight Board shall select an~~ County's independent certified public accountant~~, or other qualified individuals who will adhere to all applicable auditing standards, who shall be retained by the County, to~~ or auditor performing the County's required annual comprehensive financial audit shall also perform and complete financial audits and reviews~~, as determined necessary by the Oversight Board, of projects funded with Transportation Surtax proceeds and~~ of all Transportation Surtax proceeds received, maintained, and expended. Each applicable written agreement shall require completed annual audit and review reports to be submitted to the Oversight Board and to the

~~Broward~~ County Administrator by no later than one hundred eighty (180) days after the end of each fiscal year during which any Transportation Surtax proceeds are expended, and shall require completed non-annual reports to be submitted to the Oversight Board and to the ~~Broward~~ County Administrator within ten (10) days after report completion. In addition to the financial audits and reviews specified above, the Oversight Board may request that the County Auditor conduct a performance audit of projects funded with Transportation Surtax proceeds and of all Transportation Surtax proceeds received, maintained, and expended. Alternatively, the Oversight Board may, by vote of two-thirds or greater of the then-appointed members, seek to have an independent third-party auditing firm conduct this performance audit. ~~Such accountant or other qualified individuals~~ Any independent third-party auditing firm shall be retained consistent with applicable state and County budgetary and procurement requirements. The Office of the County Auditor shall assist the Oversight Board in its selection of ~~the~~ any independent ~~public accountant or other qualified individuals~~ auditing firm~~,~~ and shall serve as the contract administrator for all written agreements with such ~~public accountant or other individuals~~ auditing firm. The contract administrator shall work to ensure the audit and review objectives established by the Oversight Board are achieved while ensuring accountability of the contractor~~(s)~~.

(l) *Review of Cancellation and/or Termination of Municipal Projects*. If County staff terminates or cancels an eligible municipal project in accordance with the terms of the then-applicable System ILA, the municipality shall be given notice of such termination or cancellation and may, consistent with the terms of the System ILA, seek an extension from the Oversight Board before such termination or cancellation. If the Oversight Board,

after review of the request for an extension by the municipality, determines that good cause exists to allow the municipality additional time to cure the condition or defect that was the basis for the County staff cancellation or termination of the project, the Oversight Board may, consistent with the provisions and limitations contained in the then-applicable System ILA, grant an extension for the municipality to cure such conditions or defects. Unless expressly stated in the then-applicable System ILA, decisions by the Oversight Board regarding such extension requests are final and not subject to further review.

Section 2. Severability.

If any portion of this Ordinance is determined by any court to be invalid, the invalid portion will be stricken, and such striking will not affect the validity of the remainder of this Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be legally applied to any individual, group, entity, property, or circumstance, such determination will not affect the applicability of this Ordinance to any other individual, group, entity, property, or circumstance.

Section 3. Inclusion in the Broward County Code of Ordinances.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance become part of the Broward County Code of Ordinances as of the effective date. The sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase to the extent necessary to accomplish such intention.

Section 4. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED **PROPOSED**

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Annika E. Ashton, County Attorney

By: */s/ Nathaniel A. Klitsberg* 10/07/2026
Nathaniel A. Klitsberg (date)
Transportation Surtax General Counsel

NAK/hb
Original Ordinance - Combined Transportation Board Ord
10/07/2026
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Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.