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**INTER-OFFICE CORRESPONDENCE**

**MEMORANDUM NO. 2021-016**

**TO:** Mayor Frank C. Ortis  
Members of the City Commission  
Charles F. Dodge, City Manager

**CC:** Aner Gonzalez, Assistant City Manager  
Karl Kennedy, City Engineer  
Marlene D. Graham, City Clerk

**FROM:** Samuel S. Goren, City Attorney *SSG*  
Michael D. Cirullo, Jr. Assistant City Attorney *MDC*

**DATE:** February 4, 2021

**RE:** City of Pembroke Pines ("City") / Second Amendment for the  
Transportation Surtax Interlocal Agreement

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On June 5, 2018, the County Commission voted to place on the November 6, 2018 ballot, for consideration by the countywide electorate, a proposed transportation surtax levy of one percent (1%). The County Commission also enacted the Broward County Transportation Surtax Ordinance which provides a process for municipalities to apply for project funding from surtax proceeds. In order to be eligible to apply during the 2018-19 fiscal year, municipalities were required to enter into a Transportation Surtax Interlocal Agreement ("Interlocal Agreement") prior to September 30, 2018. The Interlocal Agreement provided for ten percent (10% of surtax revenues to be used for eligible municipal transportation-related projects.

The City Commission approved the Interlocal Agreement at its September 17, 2018, meeting. The surtax was approved by the voters of Broward County at the November 6, 2018, election.

In June of 2019, the County issued the first amendment to ILA which clarified the role of the Metropolitan Planning Organization (MPO) in the ranking process. An amendment to the Interlocal Agreement becomes effective upon approval by Broward County, the MPO, and by a majority of the municipalities in Broward County (the required number is 15 municipalities), as well as approvals by municipalities that include 50% of the County's population. The First Amendment was approved by Broward County and the MPO, and obtained the required municipal approvals.

In June, 2020, after ranking by the MPO, ninety-seven (97) municipal capital projects were funded in Fiscal Year 2020 for a total of \$66 million. This included

funding for design for Pembroke Rd extension from SW 196<sup>th</sup> Ave to US 27 and widening from Dykes to SW 196<sup>th</sup> (total cost estimate of \$49.4 million to \$93 million). The funding also included design of sidewalk installation at various locations in Pembroke Pines (total cost estimate of \$4.4 million). Both these projects are multiple year projects so they were included in the surtax's five (5) year plan for funding.

In addition, forty (40) municipal Rehabilitation and Maintenance (R & M) projects were funded for a total of \$56.7 million. This included resurfacing of NW 202 Ave and Johnson Street from NW 196<sup>th</sup> to NW 208<sup>th</sup> (cost estimate of \$484,000). The R&M project list will be opened every year for projects and those submitted will be ranked by the County.

Several months ago Broward County undertook a process to amend the Interlocal Agreement so that its language and requirements would confirm the work that was done for the initial review of projects, and to bolster many other subjects that the County believed needed updating. Due to the significant number of changes, the Second Amendment is proposed to be a Restatement of the original agreement, which means that in the future, reference will need to be made only to the Second Amendment.

Broward County advised that it would not proceed with any project-specific funding agreements for any eligible, ranked surtax projects until the Second Amendment is in effect. Representatives of the municipalities were involved in some of the discussions, and the final proposed document was received by the municipalities in early January, 2021. A chart showing the material changes to the Interlocal Agreement that are being made through the Second Amendment is attached hereto.

The MPO approved the Second Amendment on January 28, 2021.

As of the date of this memorandum, at least fifteen (15) municipalities have approved the Second Amendment, with those municipalities comprising more than fifty percent (50%) of the population of the County. Thus, there are sufficient municipal approvals for the Second Amendment to become effective once Broward County approves it.

Notwithstanding, the City Commission is being requested to approve the Second Amendment so that the City can be a signatory to the Second Amendment and confirm that the City is ready to accept and consider the project-specific funding agreements for the City's approved surtax properties.

Should you have any questions, please do not hesitate to contact this office.

SSG:MDC  
Enclosure

### COMPARISON CHART FOR SURTAX DOCUMENTS

ITEM DESCRIPTION	ORIGINAL ILA AS AMENDED BY FIRST AMENDMENT	PROPOSED SECOND AMENDMENT
Article I. Recitals	Recitals only	Added definitions for terms used in the Agreement
Article II. Application Process	<p>All applications in Surtax Initiative presented to County Commission on September 13, 2018, deemed properly submitted</p> <p>506 projects submitted to MPO, application will be created for additional projects. 506 then existing projects and new ones will be reviewed to be included in 5 year plan</p> <p>County develop prioritization process for R &amp; M projects beyond the then-current 203 contained in the Transportation Plan. New applications will be accepted annually</p>	<p>All new applications must be submitted to MPO for review.</p> <p>Municipal capital projects ranked 111-510 require additional evaluation by MPO, and are to be considered new municipal capital projects</p>
Article III. Eligibility	<p>A. Street Lighting. Along public roadway with a lighting justification.</p> <p>B. Drainage. Can only address runoff from a public roadway; private roads ineligible</p> <p>C. Sound Walls: Consistent with FDOT noise decibel criteria</p>	<p>A. Street lighting: Added (1) that it must be part of a road project, (2) that it must comply with the “Florida Greenbook”, and (3) can be part of a phased project with different funding sources</p> <p>B. Drainage. Added: (1) drainage analysis required (2) increases to stormwater capacity greater than eligible size of drainage project is not eligible</p> <p>C. Sound Walls: added (1) Requirement that it be part of a road project that adds lanes, significantly alters alignment or</p>

	<p>D. Fiber-optic. Shared conduit not eligible</p> <p>E. Landscaping. In public right of way that meet design standards</p> <p>F. Parking.</p> <p>G. Road Improvements</p>	<p>new road; (2) Existing traffic noise must meet certain min decibel readings; (3) Modeling must show it will reduce noise by certain decibel readings</p> <p>D. Fiber-Optic Use for any purpose other than County's public transportation system ineligible.</p> <p>E. Landscaping: Only eligible if part of a road project. Can be part of a phased project with different funding sources</p> <p>F. Parking. No changes</p> <p>G. Road Improvements. No changes</p>
Article IV. Evaluation and Ranking Process	<p>MPO will review, rank and prioritize current and future projects, subject to an agreement between County and MPO.</p> <p>506 projects do not involve R &amp; M</p> <p>203 R &amp; M Projects currently in plan not subject to MPO rankings and will be eligible for surtax funding after MPO submits its recommendations for projects that alleviate traffic congestion and improve connectivity.</p> <p>MPO will develop process for annual cycle which will permit municipalities to swap out an approved eligible project for a new eligible</p>	<p>Parties acknowledge they know of no facts to show that county funding of ranked projects in FY20 and FY21 was not correct; that the MPO properly considered and ranked the projects in February, 2020; that since ranked projects exceed funds for FY20, phases of projects not funded will be in FY20 5 year plan; and that ranked projects anticipated to use funding through FY27.</p> <p>MPO developed ranking and evaluation process must be approved in writing by County Administrator</p> <p>Beginning in 2021, MPO process must include certain items, including statutory eligibility, evaluations of project budgets, and meetings with municipal officials.</p>

	<p>project</p> <p>County will prepare a budget to include prioritized municipal projects as part of County's budget adoption process, with notice to municipalities</p>	<p>By June 1 of every year, MPO must develop a ranked list of municipal capital projects to fund, a funding schedule for phases of ranked projects and allocations in the 5 year plan. MPO annually rank municipal capital projects, including new ones, and each one may be re-evaluated each year, and their rankings and funding may vary year-to-year.</p> <p>Ranked Cycle 1 projects will retain their rankings for all phases of the project, and Cycle 1 projects shall retain their ranking unless deemed ineligible or withdrawn by municipality until all phases complete</p> <p>MPO funding recommendations cannot exceed the annual municipal allocation</p> <p>Provides specific criteria for ranking <b>MUNICIPAL CAPITAL PROJECTS:</b></p> <ul style="list-style-type: none"> <li>(a) Alleviate traffic</li> <li>(b) Addresses Resiliency Issues</li> <li>(c) Regional impact</li> <li>(d) Economic impact on socioeconomic-ally underserved areas</li> <li>(e) Public support</li> <li>(f) Construction readiness</li> <li>(g) Project included in Cycle 1</li> <li>(h) Municipal implementation of County Land Use Plan regarding affordable housing</li> <li>(i) Municipality makes project its highest priority among submitted projects</li> <li>(j) Project timing</li> </ul> <p>If MPO ceases to do rankings and evaluations, County and</p>
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		<p>municipalities must negotiate an amendment to the ILA</p> <p><b>MUNICIPAL REHAB AND MAINTENANCE PROJECTS:</b></p> <p>Cycle 1, FY20 R&amp;M rankings valid; 61 approved projects exceed the municipal maximum allocation for FY19 and FY20 combined</p> <p>Any ranked projects not funded in those years will be funded in future years.</p> <p>New applications for R&amp;M projects will be accepted only after Funding Agreements for all currently ranked 61 projects are fully executed.</p> <p>Sets forth seven criteria for the County's rankings of future R&amp;M projects</p>
Article V. Surtax Proceeds for Municipal Capital Projects	<p>10% of surtax, less community shuttle, to be allocated for municipal projects</p> <p>Capital Projects must be eligible under statutes</p>	<p>Same</p> <p>Same</p> <p>County use municipal funds for municipal capital projects per ranking</p> <p>County not obligated to fund more than the municipal allocation</p> <p>Upon municipal request, County can apply funding for a phase of a project recommended by MPO to another phase of same project</p> <p>Allocations of surtax funds for a fiscal year, and the 5 year plan</p>

		<p>for surtax projects, will be adopted as part of County annual budget process</p> <p>Lists criteria for developing 5 year and annual funding recommendations</p> <p>County staff will annually provide County Commission with proposed 5 year plan, current fiscal year funding and confirmation of project eligibility</p> <p>Municipalities will get notice of the presentation by County staff</p> <p>Sets forth criteria for changes to the 5 year plan</p> <p>Provides a mechanism for a municipality to advance fund an approved project in the 5 year plan and be reimbursed during a later fiscal year</p> <p>County may deviate from ranked capital project only if specific criteria met, and must provide notice to affected municipality</p> <p>County may convert a municipal capital project to a county one.</p> <p>Project agreements will require 30% CBE commitment for project</p> <p>Ridership requirement for community shuttles waived during emergencies and during COVID emergency</p>
Additional/New Terms	N/A	<p>Article VI. Additional requirements:</p> <p>Surtax proceeds to be placed in segregated accounts, subject to audit</p>

		<p>Municipalities waive permitting requirements for County projects unless required by law (waive application, issuance, inspection and fees)</p> <p>County waive all county permitting fees for municipal projects</p> <p>Municipalities must advise County of <b><u>any</u></b> road closures, whether related to surtax projects or not.</p> <p>Reasonable branding and marketing for surtax projects including signage.</p> <p>Municipal projects must include sensors to collect mobility-related data, and municipalities must turn over data it controls to the County</p>
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