

ORDINANCE NO. 2016-14

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 THREE-QUARTERS OF ONE PERCENT (0.75%)
10 TRANSPORTATION SURTAX FOR A PERIOD OF TWENTY
11 (20) YEARS; CREATING A SEGREGATED TRUST FUND
12 INTO WHICH ALL TRANSPORTATION SURTAX
13 PROCEEDS SHALL BE DEPOSITED; PROVIDING FOR THE
14 ESTABLISHMENT OF A TRANSPORTATION SURTAX
15 OVERSIGHT BOARD TO OVERSEE THE USE OF
16 TRANSPORTATION SURTAX PROCEEDS FOR
17 AUTHORIZED TRANSPORTATION AND TRANSIT
18 PURPOSES; AND PROVIDING FOR AMENDMENTS,
19 SEVERABILITY, INCLUSION IN THE CODE, AND AN
20 EFFECTIVE DATE.

(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,

1 operation, and maintenance of roads and bridges, bus systems, fixed guideway rapid
2 transit systems, and on-demand transportation services; (2) for the payment of principal
3 and interest on bonds issued for authorized transportation and transit projects; and (3) as
4 a pledge for bonds issued for such authorized transportation and transit projects, with
5 oversight of expenditures by an independent Transportation Surtax Oversight Board; and
6

7 WHEREAS, in furtherance of funding critical transportation and transit needs for the
8 benefit of present and future generations, the levy of the Transportation Surtax shall
9 remain in effect for a period of twenty (20) years ending on December 31, 2036, at which
10 time the Transportation Surtax shall automatically sunset and expire,
11

12 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
13 BROWARD COUNTY, FLORIDA:
14

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

17 [Underlining omitted]

18 **ARTICLE V. BROWARD COUNTY TRANSPORTATION SURTAX**
19

20 Section 2. Section 31½-71 of the Broward County Code of Ordinances is
21 hereby created to read as follows:
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underscored type are additions.

1 **Sec. 31½-71. Short title.**

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

4
5 Section 3. Section 31½-72 of the Broward County Code of Ordinances is
6 hereby created to read as follows:

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

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

17
18 Section 4. Section 31½-73 of the Broward County Code of Ordinances is
19 hereby created to read as follows:

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

21 There is hereby created the Broward County Transportation Surtax Trust Fund
22 ("Trust Fund") into which all Transportation Surtax proceeds shall be deposited. Broward
23 County is authorized to establish accounts and subaccounts within the Trust Fund as may
24

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1 be necessary or useful for administering the Transportation Surtax proceeds in compliance
2 with all legal requirements. Broward County is authorized and directed to take such
3 additional steps as necessary or useful under generally accepted governmental
4 accounting principles to ensure that balances in the accounts and subaccounts of the
5 Trust Fund at the end of each fiscal year carry forward to the subsequent fiscal year. The
6 designation and establishment of the Trust Fund, and the various accounts and
7 subaccounts therein, shall be in keeping with generally accepted governmental accounting
8 principles. Cash and investments required to be accounted for in the Trust Fund may not
9 be comingled with any other funds, including other transportation or transit funds.

10
11 Section 5. Section 31½-74 of the Broward County Code of Ordinances is
12 hereby created to read as follows:

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

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

18
19 Section 6. Section 31½-75 of the Broward County Code of Ordinances is
20 hereby created to read as follows:

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

22 To ensure accountability, objectivity, and transparency in the expenditure of
23 Transportation Surtax proceeds, there is hereby established an independent
24 Transportation Surtax Oversight Board (the "Oversight Board") to review and approve

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1 proposed transportation projects funded, in whole or part, with Transportation Surtax
2 proceeds, for consistency with the requirements of Section 212.055(1), Florida Statutes.
3 Transportation projects shall be funded with Transportation Surtax proceeds as
4 approved by the Oversight Board.

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

- 17 (1) The Secretary of the Florida Department of Transportation, District 4, or
18 an employee of District 4 designated by the Secretary;
- 19 (2) The designee of the Broward Workshop;
- 20 (3) The designee of the Broward County Council of Chambers (of
21 Commerce);
- 22 (4) The Broward County Auditor, or the Auditor's designee; and

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1 (5) The Director of the Florida Atlantic University Center for Environmental
2 Studies, or such person's designee.

3 (b) Term of Oversight Board Members. Oversight Board members shall serve
4 four-year terms and may be reappointed for successive terms. Members may be
5 removed for good cause determined by supermajority vote of the Appointing Authority,
6 and may be removed by a majority vote of the Appointing Authority if the member no
7 longer meets the qualifications for membership. Any member appointed to replace a
8 member who has been removed or who resigns shall serve for the balance of the term
9 of such member. The Appointing Authority shall meet as required to appoint or remove
10 members.

11 (c) Oversight Board Meetings. The Oversight Board shall meet quarterly.
12 The members shall elect a chairperson to preside over meetings. The Oversight Board
13 shall establish its own rules of procedure for conducting its meetings.

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

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

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

16 (g) Annual Audits. Broward County shall retain an independent certified
17 public accountant to perform and complete an annual audit of all projects approved by
18 the Oversight Board and of all Transportation Surtax proceeds received, maintained,
19 and expended.

20

21 Section 7. AMENDMENTS. The Board may amend, revise, or repeal this
22 Transportation Surtax Ordinance in the manner provided by law. However, no repeal,
23 amendment, or revision of this Transportation Surtax Ordinance, or reduction in the rate

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1 of the Transportation Surtax, may take effect if it would materially impair the contract
2 rights of the owners of any bonds, notes, or other instruments of indebtedness payable
3 in whole or in part, directly or indirectly, from the proceeds of the Transportation Surtax.
4

5 Section 8. SEVERABILITY.

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

13 Section 9. INCLUSION IN CODE.

14 It is the intention of the Board of County Commissioners that the provisions of
15 this Ordinance shall become and be made a part of the Broward County Code; and that
16 the sections of this Ordinance may be renumbered or relettered and the word
17 "ordinance" may be changed to "section," "article," or such other appropriate word or
18 phrase in order to accomplish such intentions.
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20 Section 10. EFFECTIVE DATE.

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

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

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

12
13 ENACTED May 24, 2016

14 FILED WITH THE DEPARTMENT OF STATE May 27, 2016

15 EFFECTIVE May 27, 2016

16
17 Approved as to form and legal sufficiency:
18 Joni Armstrong Coffey, County Attorney

19 By /s/ James D. Rowlee 05/25/16
20 James D. Rowlee (date)
21 Senior Assistant County Attorney

22
23 JDR/mm
05/25/16
24 Transportation Surtax Ordinance
16-412.00.

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