

~~TRANSPORTATION SYSTEM SURTAX INTERLOCAL AGREEMENT~~

~~This Transportation System Surtax Interlocal Agreement (the "Agreement") is entered into by and between Broward County, a political subdivision of the State of Florida (the "County"), the municipalities that formally approve this Agreement and execute and return to the County a signature page bearing the above legend, each of which is a municipal corporation within Broward County existing under the laws of the State of Florida (collectively, the "Municipalities"), and the Broward County Metropolitan Planning Organization, duly organized and existing under Section 339.175, Florida Statutes (the "MPO").~~

Recitals

~~A. Because of the urgent need for transportation system improvements, the County Commission voted on June 5, 2018, to place on the November 6, 2018, ballot, for consideration by the countywide electorate, a proposed transportation surtax levy of one percent (1%) (the "Ballot Proposal"). On June 5, 2018, the County Commission also enacted Ordinance No. 2018-29, the Broward County Transportation Surtax Ordinance, which is codified in Section 31½-71, et seq., Broward County Code of Ordinances, and which, among other things:~~

- ~~1. Levied the surtax subject to subsequent voter approval;~~
- ~~2. Established a transportation surtax trust fund into which all surtax proceeds will be deposited;~~
- ~~3. Established an independent oversight board (the "Oversight Board") to ensure transparency and objectivity in the review of applications for funding from surtax proceeds;~~
- ~~4. Established a seven (7) member entity (the "Appointing Authority") to appoint the members of the Oversight Board. One of the members is a designee of the Broward League of Cities; and~~
- ~~5. Provided a process by which any municipality within Broward County may apply for project funding from surtax proceeds, which process includes a request that the MPO review and rank all municipal projects based on each project's ability to alleviate traffic congestion and enhance connectivity.~~

~~B. The County and the Municipalities enter into this Agreement to demonstrate their commitment to work together to protect the health, safety, and welfare of their mutual residents and visitors, including by educating the electorate, consistent with state law requirements, on the critical importance of the Ballot Proposal.~~

~~C. The County Commission, the governing body of each of the Municipalities, and the MPO enter into this Agreement on behalf of their respective entities after having made the following findings:~~

- ~~1. Without a dedication of substantial new revenues, the existing transit system within Broward County will not be sustainable, alternative modes of transportation will not be realized, and traffic congestion will continue to worsen;~~
- ~~2. The ten-year Transportation Development Plan approved by the County Commission on January 9, 2018, identifies that the County's transit system will be substantially underfunded by 2025, despite the current dedication of substantial *ad valorem* tax revenues to subsidize transit operations;~~
- ~~3. The proposed transportation surtax would enable the advancement of transportation and premium transit projects presently identified in the MPO's Commitment 2045 Metropolitan Transportation Plan and the current five-year Transportation Improvement Program, and would provide funding for roadway capital investment projects that would improve safety, reduce congestion, and advance multimodal mobility options for residents and visitors, which projects are currently infeasible for reasons including a lack of dedicated revenue for operations and maintenance; and~~
- ~~4. Critically, the proposed transportation surtax would provide a dedicated funding source that would enable the County to leverage revenues contributed by residents and visitors to obtain federal transportation grants available only to grant applicants that can demonstrate the financial resources to build, operate, and maintain, through their useful lives, major transportation projects, thereby bringing back to Broward County more of the tax dollars paid by local residents and businesses that would otherwise be allocated to other counties and states. The proposed surtax would enable the County to compete directly for, and work collaboratively with other governmental and private partners to acquire, certain discretionary state and federal funding to advance the mobility goals of the region.~~

~~**NOW, THEREFORE,** for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:~~

Agreement

**SECOND AMENDMENT TO AND RESTATEMENT OF THE
TRANSPORTATION SYSTEM SURTAX INTERLOCAL AGREEMENT**

This Second Amendment to and Restatement of the Transportation System Surtax Interlocal Agreement ("Second Amendment") is made and entered by and among Broward County, a political subdivision of the State of Florida (the "County"), the Broward Metropolitan Planning Organization (the "MPO"), and the municipalities that formally approved and are a party to the Transportation System Surtax Interlocal Agreement that was executed by the County on August 29, 2018 (collectively, the "Municipalities," and each a "Municipality"). The County, the MPO, and the Municipalities are each a "Party," and collectively referred to as the "Parties."

RECITALS

A. Pursuant to Section 31½-71, et seq., of the Broward County Code of Ordinances ("Transportation Surtax Ordinance"), a 30-year 1% transportation surtax was levied after approval by referendum of the general electorate at the General Election on November 6, 2018, to be expended for authorized transportation and transit projects in accordance with applicable law including, specifically, Section 212.055(1), Florida Statutes ("Transportation Surtax").

B. The County and the Municipalities recognized the importance of a collaborative and strategic transportation plan for Broward County and the need for a careful analysis of proposed projects to ensure the efficient expenditure of Transportation Surtax proceeds exclusively on eligible projects. Accordingly, the Parties entered the Transportation System Surtax Interlocal Agreement, which provided for, *inter alia*, a cooperative and organized process for the Municipalities to submit projects for evaluation and funding with Transportation Surtax proceeds.

C. On September 12, 2019, the Transportation System Surtax Interlocal Agreement was amended to provide for the MPO's evaluation and ranking of municipal capital projects and the County's evaluation and ranking of municipal rehabilitation and maintenance projects (the "First Amendment"). The Transportation System Surtax Interlocal Agreement, as amended by the First Amendment, will be referred to herein as the "Interlocal Agreement."

D. The Transportation Surtax Ordinance and the Interlocal Agreement provide for the MPO to annually review, rank, and prioritize municipal projects based on the project's ability to alleviate traffic congestion and enhance connectivity. Accordingly, the County and the MPO entered into a separate agreement to establish, *inter alia*, the terms and conditions for the MPO to provide those services.

On February 28, 2020, the MPO completed its review and ranking of municipal capital projects for the first funding cycle and provided its recommendations to prioritize funding for 110 municipal capital projects for the County's fiscal year ("FY") 2020. The MPO did not evaluate the remaining 396 municipal capital projects for funding readiness and those projects will be evaluated for Transportation Surtax funding in future funding application cycles. The County also completed its evaluation, ranking, and approval of municipal rehabilitation and maintenance projects for FY2020.

E. Consistent with the Transportation Surtax Ordinance, all projects to be funded with Transportation Surtax proceeds are considered by the Independent Transportation Surtax Oversight Board for statutory eligibility under Section 212.055(1), Florida Statutes, before the Broward County Commission makes the final decisions regarding project approval and funding. Accordingly, on June 4, 2020, the Oversight Board considered the proposed municipal capital projects ranked by the MPO and the municipal rehabilitation and maintenance projects ranked by the County for FY2020 and identified 97 municipal capital projects and 61 municipal rehabilitation and maintenance projects as statutorily eligible. Of the 110 municipal capital projects ranked by the MPO, 13 projects were withdrawn from consideration by the applicable Municipality, deferred at the request of the applicable Municipality, or were deemed statutorily ineligible.

F. On June 18, 2020, the County Commission approved Transportation Surtax funding for FY2020 (which included funding carried forward from FY2019) of (i) more than \$60 million for the applicable phases of the 97 statutorily-eligible municipal capital projects recommended by the MPO, and (ii) up to \$50 million for municipal rehabilitation and maintenance projects.

G. In July 2020, in connection with the County's annual budget process and the County's FY2021 five-year capital improvement planning, the MPO provided its recommendations to fund additional phases of the 97 approved municipal capital projects (i.e., planning, design, and/or construction).

H. On September 22, 2020, the County Commission approved more than \$43 million in Transportation Surtax funding for community shuttle service and municipal capital projects for FY2021 and approved the FY2021 five-year capital plan.

I. Given the extent of the amendments outlined herein, the Parties believe it would be beneficial to fully restate the Interlocal Agreement, as amended, including to (i) document the completion of the MPO's first cycle of evaluating and ranking municipal capital projects to be funded with Transportation Surtax proceeds, (ii) document the allocation of FY2019, FY2020, and FY2021 Transportation Surtax proceeds for approved municipal capital projects, (iii) set forth the MPO's criteria going forward for evaluating, ranking, and recommending funding for municipal capital projects in future County annual five-year capital improvement plans, (iv) outline the County's general process for evaluation and ranking of municipal rehabilitation and maintenance projects and document completion of that process for FY2020, (v) document the allocation of FY2019 and FY2020 Transportation Surtax proceeds for approved municipal rehabilitation and maintenance projects, and (vi) document an agreed upon process for funding municipal capital projects, including the timing of funding and the process for adjusting County annual five-year capital improvement plans.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend and restate the Interlocal Agreement, in its entirety, as follows:

~~I. **Recitals.** The above-stated Recitals are true and correct and are incorporated herein by this reference.~~

I. Recitals and Definitions.

A. Recitals. The above-stated Recitals are true and correct and are incorporated herein by this reference.

B. Definitions. The following terms as used herein shall have the following meanings:

1. **CBE** means a County Business Enterprise, as defined in Section 1-81.1, Broward County Code of Ordinances.

2. **Community Shuttle Service** means the capital and operating expenses associated with existing, new, or expanded public transportation services, operated by participating Municipalities within their jurisdictions, that supplement fixed route mass transit service and are available to persons traveling within the Municipality.

3. **County Commission** means the Broward County Board of County Commissioners.

4. **Cycle 1 Ranked Projects** means the 110 Municipal Capital Projects listed in **Exhibit A** that were ranked and recommended by the MPO for funding in FY2020.

5. **FDOT** means the Florida Department of Transportation.

6. **Fiscal Year** means the County's fiscal year, which begins on October 1 of the year prior to the year referenced and ends on September 30 of the year referenced. For example, Fiscal Year 2020 began on October 1, 2019, and ended on September 30, 2020. Each specific Fiscal Year reference is abbreviated using "FY" preceding the year such that "FY2020" means Fiscal Year 2020, FY2021 means Fiscal Year 2021, and so forth.

7. **Five-Year Plan** means the schedule approved annually by the County Commission in connection with the County's annual five-year capital improvement planning, which provides for the timing of all Transportation Surtax funded capital improvement projects over a rolling period of the next five Fiscal Years, subject to the County Commission's decisions regarding budgeting and appropriation of Transportation Surtax Proceeds for each applicable Fiscal Year. A Fiscal Year reference to a Five-Year Plan means the plan for the five years commencing with the stated year, such that "FY2021 Five-Year Plan" means the Five-Year Plan that begins in Fiscal Year 2021.

8. **FY2020 Approved Projects** means the 97 Municipal Capital Projects that are a subset of the 110 Cycle 1 Ranked Projects listed in **Exhibit A**, and that were determined statutorily eligible for Transportation Surtax Proceeds. FY2020 Approved Projects do not include the 13 Municipal Capital Projects that were withdrawn, deferred, or deemed ineligible, which are listed in **Charts 1 and 2 on Exhibit A-1**.

9. **MAP Administration** means the County's Mobility Advancement Program Administration staff.

10. **Minimum Annual Guarantee** or **MAG** means the County's funding commitment to utilize at least ten percent (10%) of the Transportation Surtax Proceeds received by the County each Fiscal Year to fund, collectively, Community Shuttle Service, Municipal Capital Projects, Municipal R&M Projects, and Municipal Project Contingency, pursuant to the terms and conditions of this Second Amendment.

11. **MPO ILA** means the Interlocal Agreement for Transportation Surtax Services entered into between the MPO and the County on April 25, 2019, to establish and implement an organized process for MPO Surtax Staff to evaluate and rank Municipal Capital Projects and make annual recommendations for Transportation Surtax funding in connection with the County's normal Fiscal Year budgeting process and five-year capital improvement planning.

12. **MPO Surtax Staff** means the staff or contractors hired by the MPO and funded by Transportation Surtax Proceeds.

13. **Municipal Capital Projects** or **MCPs** means municipal capital improvement projects involving primarily new or expanded roads, sidewalks, bike paths, bridges, and similar transportation elements.

14. **Municipal Projects** means collectively Community Shuttle Service, Municipal Capital Projects (including any Municipal Project Contingency), and Municipal R&M Projects.

15. **Municipal Project Contingency** means Transportation Surtax Proceeds allocated by the County Commission for the purpose of covering Municipal Capital Project costs associated with unforeseen conditions during construction.

16. **Municipal R&M Projects** or **MR&MPs** means municipal projects that involve restoring a facility to safe and functional condition and/or preventative maintenance of a currently-operating facility to preserve the facility from failure or decline. Such projects include primarily the maintenance or rehabilitation of roads, sidewalks, bike paths, bridges, or similar transportation elements. Municipal R&M Projects do not include, without limitation, mowing, tree trimming, pressure cleaning, painting, irrigation repairs, landscaping repairs and maintenance, and cleaning and maintenance of catch basins, storm drains, and pipes.

17. **New Municipal Capital Projects** or **New MCPs** means all Municipal Capital Projects other than the Cycle 1 Ranked Projects.

18. **Oversight Board** means the Independent Transportation Surtax Oversight Board established in Section 31½-75 of the Broward County Code of Ordinances.

19. **Projected Minimum Annual Guarantee** or **Projected MAG** means the amount of MAG funding forecasted by the County to be available for the then-applicable Fiscal Year budget and/or for each of the applicable Fiscal Years in a Five-Year Plan.

20. **Surtax Funding Agreement** means the interlocal agreement executed by the County and the applicable Municipality, pursuant to Section 212.055(1), Florida

Statutes, in the form acceptable to the County, and which provides for the remittance of Transportation Surtax funds to the Municipality for a specific Municipal Project.

21. **Transportation Plan** means the Regional Mobility & Transportation Enhancements Surtax Initiative considered and approved by the County Commission on September 13, 2018. The Transportation Plan included 709 Municipal Projects (506 MCPs and 203 MR&MPs) with an estimated total cost, inclusive of the Municipal Project Contingency and Community Shuttle Service, of \$2.8 billion.

22. **Transportation Surtax** means the 30-year 1% transportation surtax levied pursuant to the Transportation Surtax Ordinance and approved by referendum of the general electorate at the November 6, 2018, General Election, the proceeds of which are to be expended in accordance with applicable law.

23. **Transportation Surtax Ordinance** means Section 31½-71, et seq., of the Broward County Code of Ordinances.

24. **Transportation Surtax Proceeds**, except where the context indicates otherwise, means the net amount of Transportation Surtax funds the County received for the applicable Fiscal Year from the Florida Department of Revenue after deduction of the five percent set-aside amount required by Section 129.01(2)(b), Florida Statutes.

25. **Transportation Surtax Projects** means all projects funded in whole or in part with Transportation Surtax Proceeds (including projects submitted by Municipalities, the County, or Tri-Rail).

~~II. **Applications for Funding.** All municipal projects included within the Regional Mobility & Transportation Enhancements Surtax Initiative, which will be considered by the County Commission on September 13, 2018 (the "Current Municipal Projects"), shall be deemed to have been properly submitted by the Municipalities to the County consistent with Section 31½-75(h), Broward County Code of Ordinances, and are not required to be resubmitted. There are seven hundred nine (709) Current Municipal Projects, with an estimated total cost of \$2.8 billion (including the City Project Contingency). All of these projects have been submitted to the MPO for review, ranking, and prioritization, consistent with Section IV below.~~

~~**Section II of the First Amendment provided for the MPO to conduct the applications process for MCPs submitted in 2018 and for the County to conduct the application process for MRH&MPs submitted in 2018. The new Section II is as follows:~~

~~II. **Applications for Funding.**~~

~~A. **Application Process for New Municipal Capital Projects.** Unless otherwise expressly provided in this Second Amendment, Municipalities seeking Transportation Surtax funding for New Municipal Capital Projects shall submit applications to the MPO consistent with the MPO's prescribed application process. Such applications must include all supporting documents necessary to evaluate the New MCP, including all documents~~

required by the MPO through its application process, any additional documents as may be requested by the MPO, and an independent cost estimate for each phase of the New MCP. The MPO's annual application period for New MCPs shall begin no later than **April 1** of each year. New MCPs shall be evaluated and ranked by the MPO consistent with Section IV below.

MCPs in the Transportation plan that are numbered 111 through 510 in Exhibit A require additional evaluation and analysis by the MPO, are New MCPs as defined in this Second Amendment, and must be evaluated, ranked, and recommended for funding by the MPO pursuant to the process provided in Section IV.B. of this Second Amendment.

Upon written notice to the County and the MPO, Municipalities may withdraw an MCP (i.e., cancel its application for Transportation Surtax funding for the applicable project) at any time prior to executing a Surtax Funding Agreement.

The unincorporated area of the County shall be eligible to receive Transportation Surtax Proceeds for MCPs, and projects submitted by the County on behalf of the unincorporated area shall be included and reviewed by the MPO on the same basis as any other MCP.

B. Application Process for Municipal R&M Projects. The County will accept applications for new Municipal R&M Projects periodically as Transportation Surtax Proceeds for MR&MPs become available, as determined by the County. New MR&MPs will be evaluated and ranked by the County consistent with Section IV below.

III. **Eligibility.** To be eligible for funding with Transportation Surtax Proceeds, Municipal Projects must comply with Section 212.055(1), Florida Statutes, as well as the following eligibility criteria as applicable:

A. Street lighting: Improvements to lighting systems along a public road that are ancillary to road improvements and illuminate the right-of-way for vehicles, pedestrians, and bicyclists, are eligible projects. A lighting justification report consistent with Broward County and FDOT policies and the criteria outlined in the then-current version of the Florida Greenbook is required for these improvements to be ~~considered~~ eligible. Such lighting improvements may be a component of the design for a road improvement project that included phases where were funded earlier with a different funding source.

B. Drainage: Improvements to a public road stormwater system that address drainage deficiencies are eligible, provided the drainage improvements only address stormwater runoff from a public roadway. A drainage analysis is required for drainage projects and may include the width of the road right-of-way plus up to ten feet on each side of the right-of-way to calculate the eligible size of the stormwater system. Increases to the stormwater system to accommodate a drainage area greater than the eligible size are not eligible. Improvements to address runoff from private roads and/or developments are not eligible.

C. Buffer/Sound Walls: Improvements that are consistent with the then-applicable Florida Department of TransportationFDOT noise decibel level criteria and the Broward County criteria for noise abatement projects are only eligible if the improvements meet all of the following criteria:

- Any requested sound wall is due to a road project that adds through lanes to an existing road, alters the road alignment significantly, or constructs a new road;
- The traffic noise study indicates the projected exterior noise level approaches or exceeds 67 decibels (dBA) or increases the existing noise level by 15 dBA or more; and
- FDOT compliant modeling shows the proposed wall will reduce the noise level at least five (5) dBA with a typical design goal of ten (10) dBA reduction.

D. Fiber-optic: Fiber-optic improvements supporting only communications for the County's public transportation system are eligible, provided that the proposed improvements have received approval from the maintaining and operating agency(ies). A shared conduit may not be considered for surtax funding that includes use for any purpose other than the County's public transportation system is not eligible for funding through Transportation Surtax Proceeds.

E. Landscaping: Only landscaping improvements within the public road right-of-way that are ancillary to a road improvement project and meet the applicable design criteria may be considered for funding are eligible. Such landscaping improvements may be a component of the design for a road improvement project that included phases where were funded earlier with a different funding source.

F. Parking: Improvements used for park-and-ride or other transit-oriented development parking that serve the public are eligible. Garages directly related to a public transportation project that serves the public will be considered are eligible, provided the parking fees do not exceed costs associated with securing operating and maintaining the facility.

G. Road Improvements: New roads, widening, resurfacing, and road repairs of existing roads, pavement markings, signage, guardrails, ADA accommodations, and traffic calming projects are eligible. High-end decorative lighting, decorative road signage, brick pavers, and similar items are not eligible.

~~**IV. MPO Review and Ranking.** For all Current Municipal Projects and all future municipal projects submitted to the MPO (collectively, "Submitted Municipal Projects"), the MPO agrees to review, rank, and prioritize the projects based upon each project's ability to alleviate traffic congestion and enhance connectivity. The parties hereto acknowledge that the MPO might lack adequate resources to review, rank, and prioritize the Submitted Municipal Projects prior to calendar year 2020. The impact of this is addressed in Section V below. The MPO's obligation under this paragraph shall be subject to: (a) the County and MPO entering into an agreement for the County to fund, from Transportation Surtax Proceeds (as defined below), the MPO's actual, reasonable costs of meeting this obligation; and (b) the County, MPO, and Municipalities~~

~~representing a majority of the population of Broward County entering into a separate agreement to establish the methodologies and criteria pursuant to which the MPO will review, rank, and prioritize the applicable projects.~~

**Section IV of the First Amendment provided for the MPO to evaluate and rank MCPs submitted in 2018; for the County to evaluate and rank MRH&MPs submitted in 201; and for the development of a new evaluation process for MCPs commencing in 2021. The new Section IV is as follows:

IV. Evaluation and Ranking.

A. The MPO's Cycle 1 Evaluation and Ranking of Municipal Capital Projects. The Parties acknowledge and stipulate to the following: that, having conducted all reasonable inquiry and performed all reasonable diligence, they are unaware of any facts that would render the following statements inaccurate or false:

1. The County's FY2020 and FY2021 funding of FY2020 Approved Projects and Municipal Capital Projects provided for in the County's FY2021 Five-Year Plan are consistent with all of the County's contractual obligations to the Municipalities and the MPO, and such funding was determined after prudent and proper consideration of the MPO's recommendations set forth in **Exhibit A**. The MPO's prioritization and ranking methodology and recommendations to the County were appropriately and validly informed by (a) each MCP's ability to alleviate traffic congestion and improve connectivity; (b) other factors such as shovel-readiness, level of service, incident delay, proximity to transit, population density, employment density, equity, and resiliency, as reflected in **Exhibit B** attached; and (c) the MPO's analysis and points distribution system illustrated in **Exhibit B**.

2. The MPO's evaluation and ranking process completed in February 2020 (a) properly considered all MCPs submitted by the Municipalities to date; (b) ranked the submitted MCPs in order from 1 to 110 in a fair and equitable manner in accordance with each of the Parties' contractual obligations; and (c) was not unfairly affected or tainted in any way, including, without limitation, by any existing or contemplated contractual obligations or entanglements of the MPO as consultant or service provider to one or more of the Municipalities.

3. The combined cost of funding all phases of each of the FY2020 Approved Projects far exceeds the projected aggregate Minimum Annual Guarantee for FY2019, FY2020, and all five Fiscal Years in the FY2021 Five-Year Plan. As a result, phases of FY2020 Approved Projects not scheduled for funding in FY2020 will be funded in one or more of the Fiscal Years in the FY2021 Five-Year Plan or subsequent Five-Year Plans, based on the MPO's FY2020 ranking and funding recommendations and the availability of MAG funds. In addition, statutorily-eligible Cycle 1 Ranked Projects deferred at the request of the Municipality will receive priority for MAG funding as outlined in Section IV.B.1(b) below based on the MPO's FY2020 rankings and funding recommendations. Therefore, it is anticipated that MAG funding for New MCPs may not be available before FY2027.

B. MPO Evaluation and Ranking Process for New Municipal Capital Projects: The MPO will develop, establish, and utilize an evaluation and ranking process (the "New MPO E&R Process") to prioritize the order of funding Municipal Capital Projects within the Minimum Annual Guarantee, which process may not be implemented by the MPO prior to it being approved in writing by the County Administrator. Beginning in 2021, or as soon thereafter as such process has been developed by the MPO and approved by the County Administrator, the New MPO E&R Process shall be the process utilized for evaluation and ranking of New MCPs, and shall include: (1) a preliminary assessment of the project's eligibility under Section 212.055, Florida Statutes, and Section III of this Second Amendment, which assessments shall be made in consultation with the Transportation Surtax General Counsel and counsel for the applicable Municipality; (2) an annual evaluation of any new applications from Municipalities for MAG funding of MCPs; (3) an evaluation of New MCPs for funding in the then-current fiscal year and the applicable Five-Year Plan, as applicable; (4) an evaluation of the cost estimate provided by the applicable Municipality for each expected phase of the applicable MCP; (5) individualized meetings with each Municipality to evaluate its funding applications, funding needs, funding sources, and project performance; (6) an evaluation and ranking of all MCPs for funding that utilizes the criteria listed in Section IV.B.2 below; and (7) a scoring distribution system for the evaluation and ranking of MCPs substantially the same as or similar to the system illustrated in **Exhibit B**.

1. *MPO's Rankings and Funding Recommendation*. Beginning in 2021, by **June 1** of each year and consistent with the requirements of the New MPO E&R Process provided for herein, the MPO will annually develop and deliver to the MAP Administration: (i) a ranked list of MCPs the MPO recommends for funding in the upcoming Fiscal Year, subject to Section IV.A.3; (ii) recommended schedule for funding applicable phases of annually ranked MCPs; and (iii) recommended funding allocations for ranked MCPs within the MAG for each Fiscal Year of the applicable Five-Year Plan. The funding recommendations referenced in subsections (ii) and (iii) herein must be consistent with regard to the upcoming Fiscal Year with the ranked list of MCPs submitted pursuant to subsection (i) herein.

(a) *Annual MCP Rankings*: Subject to Section 4.B.1(b) below, the MPO shall annually rank all MCPs, including New MCPs, and recommend funding within the MAG for the applicable phase of MCPs based on the criteria in Section IV.B.2. Each MCP (including their subsequent phases) shall be re-evaluated on an annual basis pursuant to the New MPO E&R Process and the criteria stated in Section IV.B.2. The Parties acknowledge and stipulate that the MPO's annual Fiscal Year ranking and funding recommendations for MCPs may vary each Fiscal Year, including based on the other MCPs being evaluated at the time and each MCP's progress and status at the time of each annual evaluation, such that a MCP or subsequent phases of any MCP may be ranked higher or lower in the ranked list in different Fiscal Years.

(b) *Cycle 1 Ranked Project Rankings.* Notwithstanding Section IV.B.1(a), unless expressly provided for otherwise in this Second Amendment, Cycle 1 Ranked Projects shall retain their ranking as assigned by the MPO in FY2020 for all phases of the project, including for subsequent phases. In addition, the MPO's annual ranking and funding recommendations shall prioritize funding for Cycle 1 Ranked Projects, in the order of their original ranking, before New MCPs and lower-ranked Cycle 1 Ranked Projects. As a result, unless the Cycle 1 Ranked MCP is withdrawn or abandoned by the Municipality, subsequently deemed ineligible for Transportation Surtax Proceeds, or deemed infeasible by the County pursuant to Section V.D., the MPO will assign Cycle 1 Ranked Projects the highest rankings in the annual ranking and funding recommendations, consistent with their originally assigned FY2020 ranking order, until all phases of Cycle 1 Ranked Projects are funded.

(c) *MPO's Funding Recommendations Not to Exceed MAG.* The MPO's annual ranking and funding recommendations shall never exceed the Projected MAG for that Fiscal Year provided in writing to the MPO by the County Administrator. The MPO may provide a supplemental list of additional MCPs it recommends for funding in excess of the MAG only if and to the extent of a written request from the County Administrator. To avoid exceeding the MAG in any Fiscal Year, the MPO may recommend that the County distribute funding allocations for a single phase (e.g., construction) of a large MCP among several Fiscal Years, in which event the MPO shall include such recommended allocations in the proposed Five-Year Plan recommendations. The County, in its sole discretion, may time the funding of that phase of the MCP among multiple Fiscal Years within the MAG.

2. *MPO Evaluation and Ranking Criteria.* The MPO shall annually evaluate, rank, and recommend funding for timely submitted MCPs based exclusively on the criteria stated in subsections (a) and (b) below:

(a) The project's ability to ***alleviate traffic congestion and enhance connectivity*** shall be the MPO's **primary** criteria for evaluating and ranking MCPs for funding and shall be weighted more than the factors in subsection (b) and any other factor in the MPO's scoring distribution and methodology. Factors relevant to the alleviation of congestion and enhancement of connectivity may include, without limitation, the following:

- i. The project's ability to alleviate traffic congestion and enhance connectivity between and among densely populated and highly concentrated employment zones, existing transit services, and multimodal connections;
- ii. The level of service of the connected roadway network;
- iii. Connections to facilities like the proposed project, existing facilities, and existing public-school zones; and
- iv. The project's ability to reduce incident delays such as vehicular, pedestrian, and bicycle accidents.

(b) The following criteria are secondary to the criteria in subsection (a), and shall be weighted less than the factors in subsection (a) and in such order as the MPO deems appropriate:

- i. The project's ability to improve or address an identified resiliency issue on a moderate to highly-vulnerable corridor including, without limitation, considerations of sea level rise and climate change, as set forth in generally accepted studies or reports such as the study titled "Extreme Weather and Climate Change Risk to the Transportation System in Broward County," or the report titled "2019 Unified Sea Level Rise Projection for Southeast Florida."
- ii. Regional impact including, but not limited to, whether the project is a collaborative effort among municipalities and crosses municipal boundaries;
- iii. The economic impact in socioeconomically underserved areas as further defined by the MAP Administration;
- iv. Demonstrated outreach and public support for the project;
- v. Construction-readiness of the project;
- vi. Whether the proposed project (including any prior phase of the project) was included in the Transportation Plan, the Cycle 1 Ranked Projects, or a prior evaluation and ranking cycle;
- vii. Whether the Municipality has implemented Land Use Policy 2.16.4 by enacting specific regulations including those referenced in Land Use Policy 2.16.4 (applicable only after the Land Use Policy is 2.16.4 is effective);
- viii. Whether the Municipality deems the proposed project its highest-priority MCP; and
- ix. Project timing, cost, and performance (if any) to date, including but not limited to:
 - The proposed project schedule and estimated completion date;
 - The project budget and the estimated total cost of the project (inclusive of all phases);
 - Whether and the extent to which the project leverages state and/or federal funds; and/or
 - Project implementation performance to date (if any) (e.g., how well the project has met its proposed schedule, delivery goals, budget, and CBE goals).

3. Duration of the MPO Role. The MPO ILA is currently scheduled to expire on December 31, 2024. If the MPO ILA expires or is terminated, or if the MPO ILA is modified to remove the MPO from the process of evaluation and ranking of MCPs, the County and the Municipalities will negotiate and execute an amendment to this Second Amendment that identifies the individuals or entities to perform the role of evaluating and ranking MCPs at the conclusion of the MPO's service in that

role. Notwithstanding Section VII.D below, the MPO's execution of such an amendment will not be required for it to be effective.

C. County Evaluation and Ranking of Municipal R&M Projects.

1. *Cycle 1 Evaluation and Ranking of Municipal R&M Projects.* The Parties acknowledge and stipulate that all Municipal R&M Projects contained in the Transportation Plan for which documentation was properly submitted in FY2020 were properly and validly reviewed and ranked by the County based upon the factors listed in Section IV.C.2. below, which resulted in the list of 61 ranked MR&MPs. The Parties agree and stipulate that the total cost of the 61 MR&MPs alone exceeded the MAG for FY2019 and FY2020 combined (exclusive of Community Shuttle Service, all MCPs, and any Municipal Project Contingency). The Parties further agree and stipulate that MR&MPs on the ranked list of 61 MR&MPs that were not funded in FY2020 will be funded in future funding cycles, subject to the availability of MAG funds as determined by the County, until all 61 MR&MPs have been funded. The County may begin accepting applications for new MR&MPs after Surtax Funding Agreements have been fully executed for all 61 MR&MPs reviewed and ranked by the County in FY2020.

2. *Evaluation and Ranking Criteria for Municipal R&M Projects.* The County will evaluate and rank MR&MPs based on its assessment of the following criteria:

- (a) The age and condition of the facilities;
- (b) Multimodal components;
- (c) Sustainability components;
- (d) Socio-economic factors (including, without limitation, gas tax revenues distributed, household income, and miles of roadway under municipal jurisdiction);
- (e) Construction-readiness of the project;
- (f) Geographic and equitable distribution of Transportation Surtax Proceeds countywide; and
- (g) Other transportation-related projects occurring or scheduled to occur in the vicinity, including to avoid unnecessary disruption of traffic and inefficient or duplicative work.

The County may re-evaluate and re-rank MR&MPs, in its sole discretion, including MR&MPs previously approved for funding, at any time based on additional information ~~the County determines to be pertinent~~ reasonably related to the criteria stated in this Section IV.C.2. and the availability of MAG funding after Community Shuttle Service and Municipal Capital Projects (including any Municipal Project Contingency) are funded in accordance with this Second Amendment.

V. Surtax Proceeds for Submitted Municipal Projects.

~~A. If the proposed surtax levy is approved by the voters in the November 6, 2018, election, the net amount of transportation surtax proceeds the County receives from the Florida Department of Revenue ("FOOR") shall be defined as the "Transportation Surtax Proceeds." The amount of Transportation Surtax Proceeds currently estimated to be received during the thirty-year levy is approximately \$15.6 billion.~~

~~B. Section 212.055, Florida Statutes, which authorizes the levy of the proposed surtax, was recently amended to require, prior to the conducting of the referendum, completion of an independent "performance audit of the program associated with the surtax adoption proposed by the county." In connection with that audit, the County submitted to the state's Office of Program Policy Analysis and Government Accountability a table attached hereto as Exhibit A (the "Table"). The Table shows the amount of Transportation Surtax Proceeds currently projected to be received by the County and the current intended use of such proceeds.~~

~~C. The row of the Table titled "City Projects" represents the County's current estimate of the amount of money available and intended in good faith to be utilized during the thirty-year tax levy to fund Submitted Municipal Projects approved by the Oversight Board (a separate row of the Table addresses Community Bus Service).~~

~~D. Consistent with Section 212.055(1)(d), Florida Statutes, the County Commission hereby determines it appropriate and the County hereby commits that, for each applicable year during which Transportation Surtax Proceeds are received by the County, an amount equal to a minimum of ten percent (10%) of the Transportation Surtax Proceeds received by the County that year, less the amount directly paid from Transportation Surtax Proceeds for Community Bus Service as outlined below, shall be used to fund Submitted Municipal Projects in the order of ranking by the MPO (with the highest-ranked project receiving the first funding). The timing and process of providing such funding shall be consistent with applicable law including Section 129.01, Florida Statutes. If there is insufficient funding remaining within such ten percent (10%) commitment (less Community Bus Service funding) to fund the highest-ranked Submitted Municipal Project that remains unfunded (i.e., the next project that would receive funding), the County Commission may, at its option, either (i) exceed the ten percent (10%) commitment (less Community Bus Service funding) by funding the highest-ranked unfunded project or (ii) not fund that project and add the difference between the amount of funding provided and the ten percent (10%) commitment (less Community Bus Service funding) to the amount to be funded the following year. Notwithstanding anything in this Agreement to the contrary, no Transportation Surtax Proceeds may be used to fund any Submitted Municipal Project: (i) submitted by a municipality that is not a party to this Agreement; (ii) that has not been approved by the Oversight Board; or (iii) to the extent utilization of Transportation Surtax Proceeds on such project would be impermissible under applicable law. Additionally, this ten percent (10%) commitment shall be reduced in any year to the extent requested expenditures for Submitted Municipal Projects prioritized by the MPO are below ten percent (10%) of Transportation Surtax Proceeds received during such year less Community Bus Service funding for such year. Funding of Submitted Municipal Projects and Community Bus Service shall be accomplished through interlocal agreements between the County and the applicable Municipalities. The unincorporated area of the County shall be considered a municipality eligible to receive funding committed under this section, and projects proposed on behalf of the unincorporated area of the County shall constitute Submitted Municipal Projects. Each Municipality agrees to keep any and all Transportation Surtax Proceeds it receives in a segregated financial account, and agrees not to commingle such proceeds with any other funds.~~

~~E. Community Bus Service. Transportation Surtax Proceeds will be used to directly fund all reasonable and necessary operating, maintenance, and capital costs of existing Community Bus Service and improved or new Community Bus Service, subject to the following conditions and subject to such expenditures being approved by the Oversight Board. Funding of Community Bus Service is not subject to any review or ranking by the MPO. To receive surtax funding, the Community Bus Service must meet or exceed the standard of 7.1 passengers per revenue service hour per route (the County has the discretion to increase this standard based on future population and ridership growth, in which event the increased standard must be met to be eligible for surtax funding). Notwithstanding anything to the contrary stated in this Agreement, the County shall not be obligated to fund in any year Community Bus Service in an amount exceeding ten percent (10%) of the Transportation Surtax Proceeds received by the County during that year.~~

~~F. Potential Limitation for Calendar Year 2019. Notwithstanding anything in this Agreement to the contrary, if the MPO is unable to review, rank, and prioritize Submitted Municipal Projects prior to calendar year 2020, the County shall fund during calendar year 2019 the Community Bus Service described in paragraph E above, and the differential (the amount of the ten percent commitment less the amount of 2019 surtax funding for such Community Bus Service) shall be added to the funding for Submitted Municipal Projects in 2020.~~

V. Surtax Proceeds for Municipal Capital Projects.

A. OPPAGA Performance Audit. In 2018, the amount of Transportation Surtax Proceeds estimated during the 30-year levy was approximately \$15.6 billion. Section 212.055, Florida Statutes, which authorizes the levy of the Transportation Surtax, was amended to require, prior to the conducting of the referendum, completion of an independent "performance audit of the program associated with the surtax adoption proposed by the county." The audit was completed and posted on the County's website as required by the statute.

B. The County's Minimum Annual Guarantee and Project Funding.

1. For each Fiscal Year, the annual amount of Transportation Surtax Proceeds allocated to Community Shuttle Service, MCPs, Municipal Project Contingency, and MR&MPs must be no less than the Minimum Annual Guarantee for the applicable Fiscal Year. Each Fiscal Year, the County will utilize the MAG for that Fiscal Year (after fully funding Community Shuttle Service) to fund MCPs, in the order as ranked and recommended by the MPO, except as stated in Section V.D below. If there are unallocated MAG funds after funding MCPs as ranked and recommended by the MPO for that Fiscal Year, the County, in its sole discretion, may roll over the unallocated MAG funds and increase the MAG for the next Fiscal Year by the amount of the rollover, or allocate the funds for MR&MPs.

2. Subject to Section V.B.1 and notwithstanding anything else stated in this Second Amendment, the Parties acknowledge and stipulate that the County has no obligation to fund Municipal Projects (inclusive of Community Shuttle Service, MCPs,

MR&MPs, and Municipal Project Contingency) in any Fiscal Year in excess of the MAG. In addition, except for FY2019, FY2020, and FY2021 funding allocations for FY2020 Approved Projects, the Parties acknowledge and stipulate that the County may, without any further condition and in its sole discretion, utilize Transportation Surtax Proceeds in excess of the MAG to fund any Municipal Project, whether or not the project has ever been ranked by the MPO, and regardless of any ranking priority the MPO may have assigned to the project. Further, and except as provided for in Section V.B.1, the Parties agree that: (i) the MPO's ranking and funding recommendations do not apply to MCPs the County elects to fund in excess of the MAG; and (ii) the County has complete discretion to fund any such MCPs in excess of the MAG if, and on such terms and conditions, it chooses.

3. Upon the applicable Municipality's written request, the County in its sole discretion may apply funding for a designated phase of an MCP previously recommended by the MPO (e.g., planning or design) to another phase of the same MCP (e.g., construction) if the following conditions are met: (i) the previously recommended phase of the MCP is completed or other circumstances render funding of that phase futile (e.g., the phase was funded with other resources); and (ii) the substituted phase to be funded has been considered statutorily-eligible by the Oversight Board. The funding amount previously recommended by the MPO for the designated phase is the maximum amount that the County will apply to the substituted phase. Any MAG funding reallocated pursuant to this paragraph shall be counted in terms of calculating whether the County has met its MAG funding obligation.

4. The timing and process of funding any MCP shall be consistent with applicable law, including Section 129.01, Florida Statutes. Transportation Surtax Proceeds shall not be utilized to fund any Municipal Project unless the County, through the Transportation Surtax General Counsel, after consultation with counsel for the Municipality and after considering the recommendation of the Oversight Board, confirms the project is legally eligible for funding with Transportation Surtax Proceeds. Notwithstanding anything in this Second Amendment to the contrary, Transportation Surtax Proceeds may not be used to fund: (i) a MCP submitted by a municipality not a party to this Second Amendment; or (ii) any project (or element of a project) legally ineligible for Transportation Surtax Proceeds.

C. The County's Annual Budget and Five-Year Plan.

1. *The County's FY2019, FY2020, and FY2021 Approved Budgets.* The Parties agree and stipulate that: (a) funding allocated by the County for Municipal Projects through the effective date of this Second Amendment exceeds the total MAG for FY2019, FY2020, and FY2021 combined and fully satisfies the County's funding obligation for those Fiscal Years; (b) the County's FY2019, FY2020, and FY2021 funding allocations for the FY2020 Approved Projects were for only the stated phase of the respective FY2020 Approved Project; and (c) funding for phases of FY2020 Approved Projects not budgeted

for in the FY2021 Five-Year Plan will be funded by the MAG in subsequent Fiscal Years consistent with the MPO's FY2020 rankings and funding recommendations.

2. *Fiscal Year Budgets and Five-Year Plans After FY2021.* For all Fiscal Years after FY2021, in the normal course of the County's annual budget and capital improvement planning process, the County will, through the County Commission, allocate funding for Transportation Surtax Projects for the then-current Fiscal Year and approve a Five-Year Plan for Transportation Surtax Projects. The County will use a team that will include transportation planning, legal, and other professionals to develop Five-Year Plans and Fiscal Year funding recommendations based on the following considerations:

- (a) The MPO's funding recommendations in FY2020 and for subsequent Fiscal Years up to the MAG;
- (b) The County Administrator's annual budget recommendations published by the County in approximately July of each year;
- (c) The Oversight Board's consideration as to statutory eligibility for funding with Transportation Surtax Proceeds pursuant to Section 212.055(1), Florida Statutes;
- (d) Available Transportation Surtax Proceeds;
- (e) Revenue and economic forecasts and analysis;
- (f) Corridor delivery modeling with an aim to achieve responsible and efficient use of Transportation Surtax Proceeds and the mitigation of potential or actual disruption to residents and businesses;
- (g) Requests from Municipalities to reschedule, modify, or combine projects;
- (h) Construction-readiness of each Transportation Surtax Project;
- (i) The ability to leverage state and/or federal funding; and
- (j) Other factors the MAP Administration or the County Commission deems relevant.

3. *The County Commission's Approval and Allocation of Funding for Municipal Projects.* Annually, the MAP Administration will provide to the County Commission for its consideration and approval: (a) a proposed Five-Year Plan which includes at least the Projected MAG funding allocations (after deducting the cost of Community Shuttle Service) for MCPs, by project and Fiscal Year, consistent with the MPO's rankings and MAG funding recommendations for the applicable Fiscal Years; (b) a Fiscal Year budget which includes at least the MAG allocations for Municipal Projects; and (c) its determination as to statutory eligibility of the proposed Transportation Surtax Projects based on the Oversight Board's evaluation. Prior to or simultaneously with its annual presentation to the County Commission, the MAP Administration will notify the Municipalities of the County's proposed Five-Year Plan and the Projected MAG for each Fiscal Year of the Five-Year Plan. The Five-Year Plan will provide for the timing of funding all capital Transportation Surtax Projects and include funding projections over a rolling five-year period. The County has no obligation to fund any MCP in an amount greater than the

least of the following: the amount recommended by the MPO, determined statutorily-eligible by the Oversight Board, or the actual cost of the project. As used in this Second Amendment, a Municipal Project (including, as applicable, the designated phase of an MCP) is "funded" when the County Commission approves the allocation of funding for the Municipal Project (or the designated phase of the MCP as applicable) included in the County's then-current Fiscal Year budget. Municipalities will receive funds allocated for MCPs as outlined in Section V.F.

4. *Adjustments to Five-Year Plans.* In the event of a material change in one or more of the factors in Section V.C.2 above, the MAP Administration will (i) make periodic adjustments to the Five-Year Plan consistent with the factors outlined in Section V.D. and, if applicable, present such adjustments to the Oversight Board for its evaluation as to statutory eligibility for funding with Transportation Surtax Proceeds; (ii) present any proposed adjustments to the County Commission for its approval and appropriation of Transportation Surtax Proceeds as the County Commission deems necessary and appropriate; and (iii) in the event Transportation Surtax Proceeds actually received by County exceed the County's projections for that Fiscal Year, the MAP Administration will request additional rankings and recommendations from the MPO to fund additional MCPs and make any necessary proposed adjustments to the MAG funding allocations for that Fiscal Year for the County Commission's approval consistent with subsections (i) and (ii) of this section.

5. *Reimbursements to Municipalities for Eligible Expenditures.* Municipalities may request reimbursement from the County for eligible expenditures under Section 212.055(1), Florida Statutes, and Section of III of this Second Amendment for MCPs included in the then-current Five-Year Plan approved by the County Commission, provided that: 1) the Municipality obtains written approval from the County Administrator of the specific project; 2) the County Commission allocated Transportation Surtax Proceeds for that MCP for the then-current Fiscal Year; and 3) the Municipality enters into and complies with all terms and conditions of the Surtax Funding Agreement for the applicable project. To the extent permissible under applicable law, the Surtax Funding Agreement may be executed after the expenditures by the Municipality, but must be executed prior to reimbursement, and the provisions of the Surtax Funding Agreement shall govern the eligibility of such expenditures for reimbursement. Funding shall be limited to the funds budgeted and allocated for that project in the then-current Fiscal Year, as approved by the County Commission.

D. The County's Limited Discretion to Fund Municipal Capital Projects Other Than as Ranked by the MPO within the MAG Funding Recommendations. The Parties agree and stipulate that the County may deviate from the MPO's ranking to accelerate or subordinate funding of an MCP within the MAG for the applicable Fiscal Year only when necessary to ensure Transportation Surtax Proceeds are utilized legally, responsibly, efficiently, and with the least disruption to residents and businesses, in the circumstances set forth herein. The County's deviation from the MPO's ranking order in one Fiscal Year

shall not modify the order of priority for funding MCPs in any subsequent Fiscal Year. If the County uses its limited discretion as defined in this section in any Fiscal Year, it shall provide written notice to the impacted Municipality(ies) of such deviation and the reason(s) for such deviation and commit to fund any subordinated MCP within a reasonably prompt time frame once the reason(s) for the deviation as stated in the County's written notice are resolved, subject to the availability of funds within the MAG. The circumstances under which the County may exercise its limited discretion pursuant to this section are limited to the following:

1. Demonstrated need, documented in writing, to coordinate the construction timeline of the applicable MCP(s) and the timing of other projects that affect the same or nearby transportation elements to avoid waste;

2. The MCP is scheduled for construction funding for that Fiscal Year but is not construction-ready for any of the following reasons:

- (a) The Municipality does not have 100% complete, signed, sealed, design plans and required construction documents for the project;
- (b) The Municipality has not obtained the written approval necessary to construct the project from the owner(s) of the impacted road(s);
- (c) Right-of-way required to construct the project has not been acquired;
- (d) The construction cost estimate is ten percent (10%) higher than the construction cost estimate proposed by the Municipality in its application for funding (after factoring in reasonable inflation);
- (e) The permits required to construct the project have not been obtained;
- (f) The utility relocation required for the project to begin construction work has not been completed or a utility relocation plan has not yet been approved by all applicable entities;
- (g) The Municipality's governing body has not adopted a resolution of support confirming its approval for the project to proceed; or
- (h) The Municipality states in writing that it is unable or unwilling to move forward with the project because of opposition from an affected community or inadequate public support for the project.

3. The applicable Municipality(ies) fails to execute or materially breaches a Surtax Funding Agreement or this Second Amendment; and/or

4. When necessary to comply with the laws, rules, court decisions, orders, and regulations of applicable governmental authorities.

In addition, the County may, in its sole discretion, deem a MCP infeasible if it fails to meet the construction-ready requirements listed in Section V.D.2 above within three Fiscal Years after the first day of the Fiscal Year for which the MCP was first scheduled for

construction funding. If a project is deemed infeasible, as provided in this Section V.D., the project will be deemed canceled and withdrawn, will lose its ranking, and its allocated funding would then be available to fund other Municipal Projects. A Municipality may elect to submit a new application to the MPO for any MCP deemed infeasible by the County.

E. The County's Discretion to Convert a Municipal Project to a County Project. The County may elect, at any time prior to executing a Surtax Funding Agreement, with the consent of the applicable Municipality(ies), to convert any MCP in the then-current Five-Year Plan to a County project. The County will provide written notice to the Municipality of its intent to convert the MCP to a County project. For any MCP converted to a County project, the funding for the project will not be counted toward the MAG, and the timing of funding the project in the applicable Five-Year Plan will be determined by the County in its sole discretion without regard to the MPO's ranking and funding recommendations.

F. Surtax Funding Agreements. The Municipalities shall receive Transportation Surtax Proceeds from the County for a funded Municipal Project subject to and upon execution of, a Surtax Funding Agreement between the County and the Municipality for each such Municipal Project. Surtax Funding Agreements for MCPs and MR&MPs shall include at least a 30% CBE commitment for the project, unless such requirement is determined inapplicable by the Director of the County's Office of Economic and Small Business Development or is modified or waived by the County Commission.

G. Community Shuttle Service. Subject to the availability of funds, the MAG will be used first to directly and fully fund the reasonable and necessary operating, maintenance, and capital costs of existing Community Shuttle Service and any improved or new Community Shuttle Service, before funding MCPs, Municipal Project Contingency, and MR&MPs. Funding of Community Shuttle Service is not subject to evaluation or ranking by the MPO. Unless waived by the County, to be eligible for Transportation Surtax Proceeds, the Community Shuttle Service must meet or exceed the standard of 7.1 passengers per revenue service hour per route or such other standard as the County may impose. The County may, in its sole discretion, decrease or increase this standard based on future population and ridership growth. The County's Transportation Department administers the Community Shuttle Service program and allocated Community Shuttle Service funding is included in the Transportation Department's annual Fiscal Year budget. In the event of interruptions due to hurricane or other natural disasters causing Municipality to fail to meet the 7.1 passenger per revenue service hour requirement, County may suspend the ridership criteria. The Community Shuttle ridership requirement is suspended until the end of the current declared local state of emergency due to COVID-19.

VI. Condition Precedent to Effectiveness of this Agreement: Joining After the Agreement Becomes Effective. This Agreement shall become effective only if, on or before September 30, 2018, the MPO and municipalities representing a majority of the population of Broward County formally approve, execute, and return the executed Agreement to the County, with a

~~contemporaneous copy e-mailed to the County Administrator and County Attorney at the e-mail addresses provided below. Any municipality may join the Agreement after it becomes effective. No municipality is eligible to receive any Transportation Surtax Proceeds prior to that municipality becoming a party to this Agreement. Additionally, if a municipality has not joined the Agreement on or before September 30, 2018, that municipality shall not be eligible to receive any Transportation Surtax Proceeds received by the County in 2019 (whether or not such proceeds are added to the 2020 funding as referenced in paragraph F above).~~

VI. Additional Requirements. Each Municipality shall: (a) fully comply and otherwise fully cooperate with the auditing, project review, and oversight requirements stated in Section 31½-71, et seq., Broward County Code of Ordinances, as same may be amended by the County; (b) ensure that all of its expenditures of Transportation Surtax Proceeds will be consistent with applicable law and with any conditions recommended by the Oversight Board when such recommendations are expressly and formally approved by the County Commission; and (c) comply with the reporting requirements stated in the applicable Surtax Funding Agreement, which may include requirements to report project performance data, metrics, measures, and deliverables as may be prescribed by the County.

A. Reporting and Accounting. Each Municipality receiving Transportation Surtax Proceeds shall deposit and maintain all Transportation Surtax Proceeds in a segregated fund or account, which shall be subject to audit by the County and the Oversight Board. Any interest earned by a Municipality on any Transportation Surtax Proceeds shall constitute Transportation Surtax Proceeds and may be utilized by the Municipality only in accordance with the terms of the applicable Surtax Funding Agreement. Upon prior written approval by the Contract Administrator, a Municipality may utilize other methods of separate accounting for the Transportation Surtax Proceeds provided the accounting method permits a full and complete audit of the funds.

B. Permitting. To decrease public inconvenience and to facilitate the expeditious and efficient completion of projects funded with Transportation Surtax Proceeds, for any project funded by Transportation Surtax Proceeds that is performed by the County and is in whole or in part within the geographical boundaries of a Municipality, each Municipality shall waive, unless prohibited by applicable state or federal law, all municipal permitting requirements, except to the extent of any portion of the work performed by the County that will be owned, operated, and maintained by the Municipality. The waiver shall include, without limitation, the requirements of permit application, permit issuance, inspections, and permitting fees. The County shall be responsible for ensuring adequate plan review, inspections, and compliance with State and County standards for work performed by the County. The County shall waive, ~~to the full extent permissible under applicable law~~ unless prohibited by applicable state or federal law, all County permitting fees for Municipal Capital Projects and Municipal R&M Projects.

C. Road Closures. Each Municipality shall institute and comply with a cooperative notification program, in a format prescribed by the County, that ensures the County is

promptly notified and promptly provided with data reasonably requested by the County regarding all municipal roads in the Municipality that are closed for any reason, including but not limited to construction of Transportation Surtax Projects, other construction, or flooding.

D. Branding and Marketing. Each Municipality shall participate in reasonable branding and marketing in the form and content prescribed by the County, including, but not limited to, signage prominently acknowledging that the applicable projects are funded with Transportation Surtax Proceeds, utilizing County-approved wording, logos, or other imagery, which branding and marketing will acknowledge the project contributions of the County and the applicable Municipality(ies). The County will work cooperatively with the Municipality(ies) regarding the location of branding and marketing signage. The costs for all branding and marketing requested by the County pursuant to this section shall be included in the Transportation Surtax Proceeds allocated for the applicable Municipal Project.

E. Data Collection and Sharing. To the extent requested by the County, each Municipality shall ensure that each of its projects funded in whole or in part with Transportation Surtax Proceeds includes incorporation and placement of sensors or other devices on municipal roads, rights-of-way, properties, and assets for County-approved applications for mobility-related data collection purposes, provided such placement shall not unreasonably interfere with the aesthetics or the Municipality's use of such roads, rights-of-way, properties, or assets. The County shall fund the costs for any such incorporation and placement requested by the County. To the extent that the Municipality controls data collection, ~~E~~each Municipality shall ensure the collection of data includes and is consistent with the scope, type, frequency, quantity, and format requested by the County in order to facilitate countywide collection and utilization of transportation data. For the useful life of the applicable project, to the extent requested by the County, each Municipality shall provide the County any and all access to such data as may be requested by the County, including recurring or real-time access or periodic download.

~~**VII. Reporting, Audit, and Related Requirements.** The County and each Municipality receiving funding pursuant to this Agreement agree to fully comply with the Reporting Requirements specified on Exhibit B, agree to fully comply and otherwise fully cooperate with the auditing, project review, and oversight requirements stated in Section 31½-75, Broward County Code of Ordinances, as same may be amended by the County (provided that such amendment(s) apply equally to the County), and agree that all of their respective expenditures of Transportation Surtax Proceeds will be consistent with applicable law and with the conditions, if any, of the approval received by the Oversight Board. The obligations stated in this paragraph shall survive expiration or earlier termination of this Agreement.~~

The boilerplate provisions that were previously numbered Sections VII through XXI have been incorporated into the new Section VII, paragraphs A through P below.

VII. General Provisions.

A. Term of Agreement. This Second Amendment shall remain in full force and effect until all Transportation Surtax Proceeds allocated by the County to Municipal Projects have been fully expended by all the Municipalities and thereafter until 90 days after the Oversight Board has completed its review of each applicable Party's final audit.

B. No Impact to Future Levies. Nothing in this Second Amendment shall impact in any way, whatsoever, any future ballot question seeking to impose, extend, or increase any levy of any surtax, or impact in any way any distribution from any such new, extended, or increased levy.

C. Funding Limited to Transportation Surtax Proceeds. The County's funding obligations under this Second Amendment shall be met solely through the use of Transportation Surtax Proceeds, and all funding provided by the County under this Second Amendment shall be consistent with applicable law including Section 129.01, Florida Statutes.

D. Amendment. This Second Amendment may be amended by a written document formally approved by the County and by such Municipalities that both (i) constitute a majority of the Municipalities that are a party to this Second Amendment, and (ii) cumulatively represent more than 50% of the County's total population. The MPO's written approval of any amendment shall only be required if the amendment purports to modify any express obligation of the MPO hereunder. Any amendment approved in accordance with this section shall be binding on all Parties hereto.

E. Governing Law, Venue, and Waiver of Jury Trial. This Second Amendment shall be interpreted and construed in accordance with, and governed by, the laws of the State of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, on in connection with this Second Amendment shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. **BY ENTERING INTO THIS SECOND AMENDMENT, EACH PARTY HERETO HEREBY EXPRESSLY WAIVES ANY AND ALL RIGHTS THAT PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CAUSE OF ACTION OR CLAIM ARISING FROM, RELATED TO, OR IN CONNECTION WITH THIS SECOND AMENDMENT.**

F. Counterparts. This Second Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same agreement.

G. Further Actions. If an audit conducted in connection herewith or in connection with Chapter 31½, Broward County Code of Ordinances, documents any misspent funds

or other violation of this Second Amendment, the Party in violation shall promptly take all reasonable and required actions to correct the violation. This provision shall survive the expiration or earlier termination of this Second Amendment.

H. Notices. In order for a notice to a Party to be effective under this Second Amendment, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The addresses for notices shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section.

As to the County: Broward County Administrator
 115 S. Andrews Avenue, Room 409
 Fort Lauderdale, FL 33301
 Current email: bhenry@broward.org

With a copy to: Broward County Attorney
 115 S. Andrews Avenue, Room 423
 Fort Lauderdale, FL 33301
 Current email: ameyers@broward.org

As to Municipality: Manager/Administrator
 Name, address, and current email provided on signature page

With a copy to: Municipal Attorney
 Name, address, and current email provided on signature page

MPO: MPO Executive Director
 100 W. Cypress Creek Road, Suite 650
 Fort Lauderdale, FL 33309
 Current email: stuartg@browardmpo.org

With a copy to: MPO General Counsel
 Weiss Serota Helfman Cole & Bierman
 200 E. Broward Blvd., Suite 1900
 Fort Lauderdale, FL 33301
 Current email: agabriel@wsh-law.com

A Party's notice address may be changed at any time by that Party, provided that Party provides notice of such change consistent with the requirements of this section.

I. Entire Agreement. This Second Amendment constitutes the final and complete understanding of the Parties regarding the subject matter of the items addressed herein,

and supersedes all prior versions of the Interlocal Agreement, the First Amendment, and all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Second Amendment that is not expressly contained in this Second Amendment. To the extent of any conflict between or among this Second Amendment, the Interlocal Agreement, and the First Amendment (and, with regard to any obligation of the MPO or County, under the MPO ILA, to the extent of any conflict between or among this Second Amendment, the Interlocal Agreement, the First Amendment, and/or the MPO ILA), the provisions of this Second Amendment shall prevail.

J. Headings. The section and subsection headings in this Second Amendment are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Second Amendment.

K. Joint Preparation. The preparation of this Second Amendment has been a joint effort of the Parties hereto, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against any Party.

L. Severability. If any portion of this Second Amendment is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective and the Parties agree to negotiate in good faith to modify the invalidated portion of this Second Amendment in a manner designed to effectuate the original intent of the Parties.

M. Advice of Counsel. Each Party acknowledges and agrees that it has had the opportunity to consult with and be represented by counsel of its choice in connection with the negotiation and preparation of this Second Amendment.

N. Individual Liability. Except as provided in Section VII.D., each Party agrees and commits to fully comply with the obligations of this Second Amendment for that Party, with each Party only being responsible for its own compliance; a default by any one Party of any obligation under this Second Amendment shall not constitute a default by any other Party.

O. Waiver and Release. Each Party agrees and stipulates that as of the Effective Date (as defined below) of this Second Amendment, each Party is in full compliance with all terms and conditions of this Second Amendment. To the extent any Party may have a claim for a breach or default of any provision of the Interlocal Agreement, the First Amendment, or this Second Amendment that accrued prior to the Effective Date, each Party fully waives and releases their individual claims.

P. Effective Date. The effective date of this Second Amendment shall be the date of complete execution by the County, the MPO, and by such Municipalities that both (i) constitute a majority of the Municipalities that are a party to this Second Amendment,

and (ii) cumulatively represent more than 50% of the County's total population (the "Effective Date").

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IN WITNESS WHEREOF, the Parties hereto have made and executed this Second Amendment to and Restatement of the Transportation Surtax Interlocal Agreement on the respective dates under each signature: BROWARD COUNTY, through its Board of County Commissioners, signing by and through its County Administrator, authorized to execute same by Board action on the 10th day of September, 2020 (Agenda Item 61); the MPO, signing by and through its authorized officer or official, duly authorized to execute same by official action taken on the date identified on its signature page; and each Municipality signing by and through its authorized officer or official, duly authorized to execute same by official action taken on the date identified on its signature page.

COUNTY

WITNESSES:

BROWARD COUNTY, by and through
its County Administrator

Signature

By: _____
Bertha Henry, County Administrator

____ day of _____, 20__

Print Name of Witness above

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

Signature

Print Name of Witness above

By: _____
Devona A. Reynolds Perez (Date)
Assistant County Attorney

By: _____
Angela J. Wallace (Date)
Transportation Surtax General Counsel

AJW/DRP
Second Amendment to and Restatement Transportation Surtax ILA.doc
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#20-114.00

**SECOND AMENDMENT TO AND RESTATEMENT OF THE
TRANSPORTATION SYSTEM SURTAX INTERLOCAL AGREEMENT**

MPO

By: _____
Gregory Stuart, Executive Director

By: _____
_____, Chair

This _____ day of _____ 2020.

This _____ day of _____ 2020.

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE USE OF AND
RELIANCE BY THE MPO ONLY:

By: _____
Alan L. Gabriel, MPO General Counsel
Weiss Serota Helfman Cole & Biermann, P.L.

EXHIBIT A

Cycle 1 Ranked Projects

EXHIBIT A-1

Chart 1 and Chart 2 below list the Cycle 1 Ranked Projects that were withdrawn, deferred, or deemed ineligible and therefore not included in the FY2020 Approved Projects.

Chart 1 – Withdrawn or Deferred MCPs

The Cycle 1 Ranked Projects in the table below were withdrawn or deferred at the request of the respective Municipalities.

Ranking	Project Number	Municipality	Comments
#10	LLAK-003	Lauderdale Lakes	Withdrawn/Deferred at City's request
#18	PPRK-002	Pembroke Park	Withdrawn/Deferred at City's request
#70	POMP-011	Pompano Beach	Withdrawn/Deferred at City's request
#72	COCO-020	Coconut Creek	Withdrawn/Deferred at City's request
#79	PPIN-021	Pembroke Pines	Withdrawn/Deferred at City's request
#86	LSEA-035	Lauderdale by the Sea	Withdrawn at City's request
#92	OAKL-025/WILT-015	Oakland Park/Wilton Manor	Withdrawn/Deferred at City's request
#100	WILT-015	Wilton Manors	Removed/Combined with Oakland Park's project OAKL-025
#104	PPIN-038	Pembroke Pines	Withdrawn/Deferred at City's request
#110	TAMA-021	Tamarac	Withdrawn/Deferred at City's request

Chart 2 – Ineligible MCPs

The Cycle 1 Ranked Projects in the table below were deemed ineligible.

Ranking	Project Number	Municipality	Comments
#11	TAMA-018	Tamarac	Ineligible
#29	WILT-007.1	Wilton Manors	Ineligible
#55	COOP-035	Cooper City	Ineligible

EXHIBIT B

Municipal Surtax Project Ranking Evaluation Criteria & Points Distribution