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MEMORANDUM

TO: Members of the Transportation Surtax Oversight Board

FROM: Nathaniel A. Klitsberg, Transportation Surtax General Counsel 

DATE: August 20, 2025

RE: **Proposed Updates to the Broward County Code of Ordinances and the Broward County Administrative Code as a Result of Enactment of the Third Amendment to Transportation System Surtax Interlocal Agreement with Municipalities**

On June 10, 2025, the Board of County Commissioners ("Board") approved the 2025 Amended and Restated Transportation Surtax Interlocal Agreement ("Third Amendment"). As part of its approval of the Third Amendment, the Board directed the Office of the County Attorney to draft corresponding amendments to the Code of Ordinances ("Code") that our Office recommended as a result of the Third Amendment. Since the Board's approval of the Third Amendment, the requisite number of municipalities has approved the Third Amendment, resulting in it becoming effective earlier this summer.

Our Office is finalizing drafts of proposed amendments to the Code and the Broward County Administrative Code ("Administrative Code") for consistency with the Third Amendment and Florida law, for conformity with other sections of the Code, and to address minor technical items. These amendments are anticipated to go before the Board in the fall to coincide with the next cycle of proposed municipal projects and the start of the 2026 Fiscal Year.

Even though the proposed amendments are still being finalized, this memorandum summarizes the substantive changes to the Code and Administrative Code so they can be discussed by the Oversight Board at its August 22, 2025, meeting.

Proposed Ordinance Amendments: The proposed changes to the Code are both substantive and technical.

- **Eligible Municipal Projects:** The provisions in the ordinance regarding municipal capital projects and municipal rehabilitation and maintenance projects are being modified for consistency with the Third Amendment. "Eligible Municipal Projects" include capital and rehabilitation and maintenance projects as well as "on-demand transportation services."
- **Use of Surtax Funds for R&M:** Based on language contained in the Third Amendment, a proposed Code amendment will remove the current ordinance prohibition on a

municipality using surtax funding for rehabilitation and maintenance of a capital improvement that received surtax funding.

- **CBE:** Technical changes to the CBE requirements provisions in the ordinance are being proposed to specify that the CBE commitment is a “minimum of” a 30% commitment “based on Transportation Surtax proceeds awarded for the project.”
- **Eligibility Review:** Because statutory eligibility of surtax-funded projects is a legal determination, our Office has recommended removal of sections in the Code relating to the Oversight Board undertaking a statutory eligibility review. The Code has been supplemented with provisions that ensure that County staff present to the Oversight Board all proposed surtax projects and expenditures prior to them being submitted to the Board of County Commissioners as part of the County Administrator’s proposed budget. New language has also been added to the ordinance stating that the Oversight Board may, by majority vote, submit to the County Administrator recommendations regarding best practices or other methods that may be employed to improve a proposed project or proposed surtax expenditure as part of the Oversight Board’s annual review of projects and expenditures.
- **Audits:** Proposed amendments specify that the County’s independent certified public accountant or auditor that performs the County’s required annual comprehensive financial audit shall also perform financial audits and reviews of all surtax proceeds received, maintained, and expended. A new section has also been proposed to allow the Oversight Board to request that the County Auditor conduct performance audits of surtax-funded projects or, by supermajority vote of the Oversight Board (2/3 or greater), to have an outside third-party auditor perform the performance audit.
- **Municipal Objections to County Termination of Projects:** The proposed amendments authorize the Oversight Board to hear any municipal objections to County termination of a surtax-funded project and, if the municipality shows good cause, to grant up to 90 additional days for the municipality to bring their project into compliance and placed under a Surtax Funding Agreement, which would avoid such termination.
- **Public University Category:** The category of Oversight Board member (President of a public higher education institution with a presence in Broward County, or the President’s designee) has been slightly modified for consistency with Florida law and the positions at such universities. The proposed change will require the individual to have experience in “supplier and vendor relations” and “workforce development” versus the existing language requiring experience in “supplier relations and diversity.”
- **Appointing Authority “Supermajority” Vote:** Clarifying language is being proposed to specify that the “supermajority vote” of the Appointing Authority required to remove an Oversight Board member for cause requires that vote to be “two-thirds or greater.”

- **Miscellaneous:** Because the County's contract with the MPO for surtax services ends at the end of 2025 and the Third Amendment specifies the manner by which proposed projects will be reviewed by County staff, various sections of the Code referring to the MPO (and the MPO review process for municipal projects) and County staff review have been eliminated and now specify that such reviews will be made as provided in the then-applicable interlocal agreement between the County and municipalities.

Proposed Administrative Code Changes: Most proposed changes to the Administrative Code are technical in nature.

- **Quorum:** A quorum remains a majority of then-appointed members of the Oversight Board. For consistency with Code and Administrative Code requirements relating to other County Boards, changes are being proposed to specify that if the Chairperson or at least 3 members of the Oversight Board are physically present at a meeting, other members of the Oversight Board would be able to attend electronically (video conference, phone, etc.) and establish a quorum. Additionally, during declared County states of emergency, appearance through electronic means would be permitted for all members.
- **Attendance:** Removal of a member of the Oversight Board for repeated unexcused absences will expressly require a majority vote of the Appointing Authority. Currently, the Administrative Code merely indicates that removal may be made by the Appointing Authority without specifying the required vote.
- **Removal of Officers:** Proposed changes to the Administrative Code clarify that removal of the Chair or Vice-Chair of the Oversight Board requires a majority vote of the "then-appointed members" of the Oversight Board.

I look forward to discussing these proposed changes with you in greater detail at this week's meeting. If you have any questions in the interim, please contact me at 954-357-7622 or nklitsberg@broward.org.

NAK/hb

c: Monica Cepero, Broward County Administrator
Laurette Jean, Assistant County Administrator
Gretchen Cassini, Mobility Advancement Program Administrator
Andrew J. Meyers, County Attorney