

**RESOLUTION NO. 2019 – 054**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING THE FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT WITH BROWARD COUNTY PROVIDING FOR THE DIVISION AND DISTRIBUTION OF THE PROCEEDS OF THE TRANSPORTATION SYSTEM SURTAX; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO EXECUTE SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Broward County Commission enacted Ordinance #2018-29 on June 5, 2018 to authorize the levy of a transportation system surtax to fund transportation system improvements subject to voter approval; and

**WHEREAS**, the Transportation System Surtax (SURTAX), was approved by voters during the November 6, 2018 election, and levies a 1% sales tax, the proceeds of which have been placed into a surtax trust fund; and

**WHEREAS**, the Town and Broward County executed an Interlocal Agreement (ILA) on September 12, 2018 via Resolution 2018-073 which earmarked a minimum of 10% of the SURTAX to fund submitted municipal projects that meet eligibility requirements and are prioritized by the MPO; and

**WHEREAS**, the County and the partnering cities wish to amend the ILA to clarify the definition of eligible projects, change the date of municipal project prioritization, create a Five-Year Plan to include all projects for approval by the Oversight Board, and remove the responsibility for prioritizing projects from MPO staff.

**NOW, THEREFORE, BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:**

**Section 1:** Recitals. The above-referenced recitals are true and correct and are incorporated herein by reference.

**Section 2:** The Town Council hereby approves the First Amendment to the Interlocal Agreement with Broward County, substantially in the form attached hereto and incorporated herein by reference as Composite Exhibit "1," providing for an amendment to the division and distribution of the proceeds of the Transportation System Surtax.

**Section 3:** Authorization. The Mayor, Town Administrator and Town Attorney are hereby authorized to enter into the Interlocal Agreement with Broward County for the division and distribution of the proceeds of the Transportation System Surtax, and to make such modifications, additions and/or deletions which they deem necessary and proper to effectuate the intent of this Resolution.

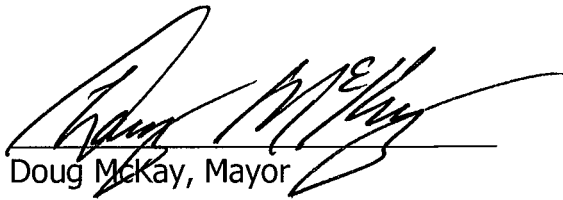
**Section 4:** Effective Date. This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest

Ranches, Florida, this 22<sup>nd</sup> day of August, 2019 on a motion by

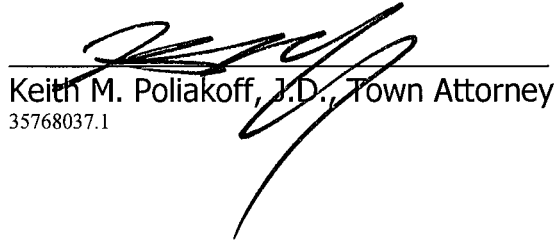
Vince Klagon Jablonski and seconded by Council Member Schroeder

McKay	<u>Yes</u>	Ayes	<u>4</u>
Jablonski	<u>Yes</u>	Nays	<u>0</u>
Fisikelli	<u>Absent</u>	Absent	<u>1</u>
Hartmann	<u>Yes</u>		
Schroeder	<u>Yes</u>		

  
Doug McKay, Mayor

ATTEST:  
  
Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

  
Keith M. Poliakoff, J.D., Town Attorney  
35768037.1

## FIRST AMENDMENT TO TRANSPORTATION SYSTEM SURTAX INTERLOCAL AGREEMENT

This is the First Amendment (the "First Amendment") to the Transportation System Surtax Interlocal Agreement, entered into by and between Broward County, a political subdivision of the State of Florida (the "County"), the Broward Metropolitan Planning Organization, duly organized and existing under Section 339.175, Florida Statutes (the "MPO"), and the municipalities that have formally approved the Interlocal Agreement (collectively the "Municipalities") that was executed by the County on August 29, 2018 (the "Interlocal Agreement").

### Recitals

- A. The transportation surtax ballot measure was approved by the voters on November 6, 2018, and the Parties desire to enter into this First Amendment to address the issues specified below.
- B. The Parties acknowledge that, under the Interlocal Agreement, the MPO is required to review, rank, and prioritize Submitted Municipal Projects based on each project's ability to alleviate traffic congestion and enhance connectivity. Because municipal rehabilitation and maintenance projects (involving the maintenance and rehabilitation of roads, sidewalks, bike paths, drainage, etc.) may not promote connectivity or alleviate traffic congestion, the amendments stated below, among other things, are intended to increase the likelihood that such projects will receive funding earlier in the Transportation Surtax Program.

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

1. Except as expressly modified herein, all terms and conditions of the Interlocal Agreement remain in full force and effect. Amendments made to the Interlocal Agreement by this First Amendment are indicated by use of strikethroughs to indicate deletions and underlining to indicate additions, unless otherwise stated. Terms used herein but not defined herein shall have the meaning ascribed to such terms in the Interlocal Agreement.
2. Section II, titled "Applications for Funding," is hereby amended to read as follows:

Applications for Funding. All municipal projects included within the Regional Mobility & Transportation Enhancements Surtax Initiative, which ~~will be~~ were 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 (this number includes 506 municipal roadway and safety projects and 203 municipal maintenance and rehabilitation projects), with an estimated cost of \$2.8 billion (including the City Project Contingency and Community Bus Service). The Parties acknowledge that in any given year the County may,

but is not obligated to, fund more than the ten percent (10%) commitment (inclusive of Community Bus Service funding) provided for in Section V.D. of the Interlocal Agreement.

All of these The 506 municipal roadway and safety projects have been submitted to the MPO for review, ranking, and prioritization, consistent with Section IV below. Consistent with the Interlocal Agreement entered into between the MPO and the County on April 16, 2019, an application process will be established by the Transportation Surtax-funded MPO staff to allow Municipalities to submit applications for new or amended projects, beyond the 506 Submitted Municipal Projects currently in the Plan to be prioritized based on their ability to enhance connectivity and alleviate traffic congestion. Transportation Surtax-funded MPO staff will accept, review, evaluate, and recommend existing and new municipal projects to be contained in a Five-Year Plan, due to be submitted by Transportation Surtax-funded MPO staff to County staff no later than July 2020.

The County will develop a prioritization process for municipal rehabilitation and maintenance projects that allows Municipalities to submit new or amended rehabilitation and maintenance projects beyond the 203 currently contained in the Transportation Surtax Plan. The prioritization process for municipal rehabilitation and maintenance projects will acknowledge the age and condition of facilities while striving to achieve geographic and equitable distribution of Transportation Surtax Proceeds countywide to benefit all who participate in paying the surtax. The process will be presented to stakeholders and the County Commission prior to implementation. New or amended rehabilitation and maintenance project applications will be accepted from Municipalities by County staff through an annual process that will be developed and presented to Municipalities.

3. Section III, paragraph G is hereby amended to read as follows:

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.

4. Section IV, titled “MPO Review and Ranking,” is hereby amended to read as follows:

MPO Review and Ranking. For all Current Municipal Projects and all future municipal projects submitted to the MPO (collectively, “Submitted Municipal Projects”), the Transportation Surtax-funded MPO staff agrees to review, rank, and prioritize the current and future projects (including the 506 projects currently in the plan that do not involve rehabilitation and maintenance) based upon each project’s ability to alleviate traffic congestion and enhance connectivity. The 203 rehabilitation and maintenance projects (involving the maintenance or rehabilitation of roads, sidewalks, bike paths, bridges, etc.) currently in the plan will not be subject to MPO ranking and prioritization and will be eligible for funding from available Transportation Surtax Proceeds after the MPO submits its recommendations for projects that alleviate traffic congestion and improve connectivity. The parties hereto acknowledge that the MPO might lacks adequate resources and time 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 the 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, and the MPO, ~~and with Municipalities being represented through their representation on the MPO Board~~ representing a majority of the population of Broward County entering into a separate agreement to establishing in writing the methodologies and criteria pursuant to which the MPO will review, rank, and prioritize the applicable projects. The Parties agree that prioritization will be informed by each project's ability to alleviate traffic congestion and improve connectivity, but also acknowledge that Transportation Surtax-funded MPO staff may properly consider shovel-readiness, construction work planned in the vicinity of a proposed project, corridor delivery timing, and other existing conditions that allow surtax revenues to be utilized responsibly, efficiently, and with the least interruption to residents and businesses.

Transportation Surtax-funded MPO staff will work with the County to develop an annual process that allows municipalities to submit eligible projects for MPO review, ranking, and prioritization. This application process will provide an option for Municipalities to "swap out" one or more of their existing eligible projects with a new project of similar cost, with the County's written consent. This process will be available commencing with the February 2021 annual municipal projects evaluation cycle.

The County, through the Mobility Advancement Plan's administration, will prepare a budget, annually, to be approved in the normal course of the County's budget process, which includes municipal projects that have been prioritized by the Transportation surtax-funded MPO staff and approved as eligible for funding by the Independent Transportation Surtax Oversight Board. Municipalities will be notified by the MPO and the County individually, and collectively, at each stage of the budget processes so they are full, participating partners and will have a level of certainty regarding a five-year project and revenue forecast.

5. Section VI, titled "Conditions Precedent to Effectiveness of this Agreement; Joining After the Agreement Becomes Effective," is hereby deleted in its entirety.
6. The Parties hereto represent and acknowledge that the Village of Lazy Lake is the only municipality that has not approved the Interlocal Agreement and therefore is the only municipality that is not entitled to receive Transportation Surtax Proceeds, commencing with the initial distribution thereof.
7. This First Amendment represents the final and complete understanding of the Parties regarding the subject matter of the items addressed herein, and together with the remainder of the Interlocal Agreement, supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this First Amendment that is not contained in this written document or the Interlocal Agreement.

8. The effective date of this First Amendment shall be the date of complete execution by the County, the MPO, and such Municipalities that, at the time the amendment is being considered, both (i) constitute a majority of the Municipalities that are parties to the Interlocal Agreement, and (ii) cumulatively represent more than fifty percent (50%) of the County's total population. The MPO's written approval of this First Amendment is required because it modifies express obligations of the MPO.
9. This First 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.

[Remainder of this page is intentionally blank]

IN WITNESS WHEREOF, the Parties have made and executed this First Amendment on the respective dates under each signature: BROWARD COUNTY, by its Board of County Commissioners, signing by and through its Mayor or Vice-Mayor, duly authorized to execute same by Board action on the \_\_\_\_\_ day of \_\_\_\_\_, 2019; 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.

**BROWARD COUNTY**

ATTEST:

BROWARD COUNTY, by and through  
its Board of County Commissioners

\_\_\_\_\_  
Broward County Administrator, as  
ex officio Clerk of the Broward County  
Board of County Commissioners

By \_\_\_\_\_  
Mayor

\_\_\_\_ day of \_\_\_\_\_, 2019

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  
Telecopier: (954) 357-7641

By: \_\_\_\_\_  
Angela J. Wallace  
Deputy County Attorney

\_\_\_\_ day of \_\_\_\_\_, 2019

AJW  
1<sup>st</sup> Amendment Transportation Surtax ILA  
05/21/2019

**FIRST AMENDMENT TO TRANSPORTATION SYSTEM SURTAX INTERLOCAL AGREEMENT**

**BROWARD METROPOLITAN PLANNING ORGANIZATION**

By: \_\_\_\_\_  
Gregory Stuart, Executive Director

By: \_\_\_\_\_  
Richard Blattner, Chair

This \_\_\_\_\_ day of \_\_\_\_\_ 2019.

This \_\_\_\_\_ day of \_\_\_\_\_ 2019.

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

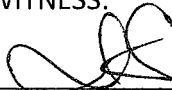
By: \_\_\_\_\_  
Alan L. Gabriel, BMPO General Counsel  
Weiss Serota Helfman Cole & Biermann, P.L.



**FIRST AMENDMENT TO TRANSPORTATION SYSTEM SURTAX INTERLOCAL AGREEMENT**

**TOWN OF SOUTHWEST RANCHES** through its Town Council, signing by and through its Mayor, authorized to execute the same by Board action on the 22<sup>nd</sup> day of August, 2019.

WITNESS:

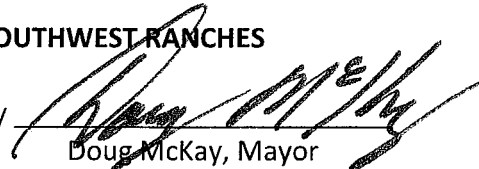
  
\_\_\_\_\_  
Signature of Witness

Ivette Solera  
\_\_\_\_\_  
Print of Type Name of Witness

  
\_\_\_\_\_  
Signature of Witness

Danielle Caban  
\_\_\_\_\_  
Print of Type Name of Witness

**SOUTHWEST RANCHES**

By   
\_\_\_\_\_  
Doug McKay, Mayor

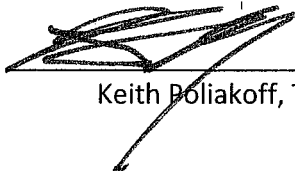
22<sup>nd</sup> day of August, 2019

By   
\_\_\_\_\_  
Andy Berns, Town Administrator

ATTEST:

  
\_\_\_\_\_  
Russell Muniz, Assistant Town Administrator Town Clerk

Approved as to legal form

  
\_\_\_\_\_  
Keith Poliakoff, Town Attorney