



Memorandum

Memorandum No: 22-009

Date: January 11, 2022

To: Honorable Mayor and Commissioners

From: Chris Lagerbloom, ICMA-CM, City Manager

Re: Broward County Transportation Surtax Update

In 2018, Broward County voters approved a referendum to levy a one cent sales tax for transportation improvements. The program includes a “Minimum Annual Guarantee” funding commitment to utilize at least ten percent of the Transportation Surtax proceeds received by the County each fiscal year to collectively fund: Community Shuttle Service, Municipal Capital Projects (MCPs), Municipal Repair and Maintenance Projects, and Municipal Project Contingencies.

Each year, the municipalities in Broward County can submit funding applications for Municipal Capital Projects. The Broward Metropolitan Planning Organization (MPO) is responsible for the application review and ranking process and Broward County determines eligibility, funding, and approval (or denial) of funding the projects.

As the program evolved, there has been some confusion and concerns about the County’s process, eligibility interpretations, and administrative requirements to receive funding. Specifically, on November 8, 2021, the Broward County City Manager’s Association (BCCMA) issued a letter to the County outlining their collective concerns about the program. During Cycle Two (2021), the City of Fort Lauderdale submitted 19 projects for consideration and two of them were deemed eligible, but not funded.

City staff continues to prepare for the 2022 application period and has been working closely with the MPO. City staff were prepared to submit approximately 20 projects in 2022 (Attachment 2), but after an initial review with the MPO, we were encouraged to submit only five of the projects. The primary reason is that the Broward County legal interpretation is that all surtax projects must contain roadway improvements. As the process and understanding continues to change, MPO staff agreed to give a presentation at the February 1, 2022, City Commission Conference meeting.

The City of Fort Lauderdale was awarded nine surtax projects in Cycle One and zero projects in Cycle Two. Recently, two of the awarded Cycle One projects were rescinded by the County and deemed ineligible, as the projects did not include roadway improvements. The status of the nine projects is outlined in Attachment 3.

For further information on this initiative, please contact Ben Rogers, Director of Transportation and Mobility, at brogers@fortlauderdale.gov.

Attachments:

November 8, 2021, BCCMA Letter to Ms. Bertha Henry
2022 Proposed Surtax Project Applications
Cycle One Surtax Project Status

c: Tarlesha W. Smith, Esq., Assistant City Manager
Greg Chavarria, Assistant City Manager
Alain E. Boileau, City Attorney
Jeffrey A. Modarelli, City Clerk
John C. Herbst, City Auditor
Department Directors
CMO Managers



2020 Officers

President
Gregory Harrison
City Manager
Pompano

Vice President
Kathleen Gunn
Assistant City Manager
Tamarac

Secretary – Treasurer
Karl C. Thompson, P.E.
Assistant City Manager/COO
Weston

November 8, 2021

Ms. Bertha Henry
Broward County Administrator
Broward County Administration
115 S. Andrews Avenue, Room 409
Fort Lauderdale, FL 33301

RE: BCCMA survey related to surtax implementation

Greetings Bertha:

On behalf of BCCMA Members, I am conveying the following serious concerns we have regarding the Surtax.

As you may be aware, there have been ongoing presentations to the BCCMA membership related to surtax and recently a subcommittee was formed to identify the areas where the process and collaboration between the cities and the County may be improved as we pursue the common goal of delivering quality projects to the public. The subcommittee surveyed the BCCMA membership and identified a number of matters we would like to discuss with you and your team.

The general sentiment is that some of the representations made during the original roll out of the program have been reinterpreted, adding legal constraints that may be inconsistent with what the public and the cities were promised when the surtax was presented for approval.

During those early meetings, the concept was that the County would act only as the funding agency, leaving the Cities to be responsible for the administration of their own projects. The cities agreed to accept the responsibility and liability for these projects; however, excessive requirements have since been added and the cities are being asked to change our processes to mirror the County's. One clear example of this concern relates to the use of existing contracts.

Earlier direction was that we could amend our existing contracts to include specific language and that would suffice. The County's legal interpretation regarding the compliance of the existing CCNA agreements with the State Statute has been inconsistent with the City Attorneys' interpretations. The County is requiring new RFQs to be completed, despite the cities, rather than the County, ultimately being liable for statutory compliance.

Further, there have been limiting interpretations and standards imposed that are inconsistent with the policy goals. The following examples were highlighted in the survey of our membership.

Project eligibility - Pedestrian lighting projects were recently interpreted as ineligible by the County's legal office. The focus of municipal surtax projects appears to be shifted by the County solely to improving vehicular movement.

Excessive standards The County is not accepting professional photometric studies, instead permitting only an FDOT standard study for roadway lighting. The industry standard would be to defer to the "Green Book", which provides lighting standards for other types of roadways such as local roads and arterials.

There is a lack of consistent direction that is further exacerbated by the fact that the County's legal review team does not appear to embrace the practical implementation perspective espoused by the MAP Administration: Specific examples include:

The use of in-house CEI. Many cities have successfully completed a number of projects utilizing in-house CEI services, saving time needed to solicit the services and saving cost, including for projects designed by in-house staff. Unfortunately, the cities have received conflicting messages pertaining to the ability to use in-house CEI service and reimbursement for staff time associated with CEI.

The application submission process For Cycle Two, cities were not clearly and consistently informed that there was no funding for new Cycle two (2) projects or that the determination was made on which projects will be funded. We'd like to propose a review period where concerns are identified and can be addressed prior to final submission.

Engineer of Record Services – The EOR can and should play a vital role, in conjunction with the CEI, to certify that the project is being constructed in accordance with applicable standards and the original intent/concept. While these services are allowed for the "shovel ready" (construction phase) projects, the County does not appear to have a process for allowing/approving the Engineer of Record (EOR) to perform services such as RFI response.

If the ILA indicates that there could be design services during construction, there are currently no official guidelines specifying how this will be achieved. Clarity is needed on whether the design phase is to be open until construction is completed, (e.g. 90%), and how that would impact the design phase reporting, monitoring, and performance metrics.

Additionally, we learned on a Surtax webinar last week that funding must occur in four sequential phases of equal dollar amounts. This is not normal in the construction industry and may result in project delays.

Last, but not least, costs keep climbing due to project delays and the conditions around the world. Some rational basis for cost escalation should be considered. On behalf of the BCCMA member cities, we thank the County staff members from the legal team and the MAP administration being available to answer our questions on an ongoing basis. At the same time, we look forward to further conversation to facilitate the necessary improvements to move these projects forward in a more timely, efficient and practicable manner.

Sincerely,

A handwritten signature in blue ink that reads "Greg Harrison". The signature is written in a cursive style with a large initial "G".

Greg Harrison, President

cc: Monica Cepero, Deputy County Administrator
Gretchen Cassini, Transportation Surtax Administrator
Drew Meyers, County Attorney

2022 PROPOSED SURTAX PROJECT APPLICATIONS

Project	Project Phase	MPO Recommends Submittal
SW 14th & Middle Street (Street widening & sidewalks)	Design	X
Citywide Street Resurfacing	Construction	
NE 26th Street Streetscape	Construction	
NE 15th Avenue Streetscape	Construction	
Las Olas Mobility Plan Street & Lighting	Design	
Eisenhower Boulevard & SE 17th Street Intersection Configuration	Design	X
Birch Road Mobility Plan	Design	
Citywide Mobility Masterplan	Planning	
NW 4th Street Drainage and Roadway Capacity Improvements	Design and Construction	
ADA Compliant Bus Shelters Construction	Construction	
ADA Compliant Bus Shelters Design and Installation	Design and Construction	
Breakers Avenue Streetscape	Construction	
Riverland Road Traffic Calming Implementation	Construction	X
Bal Harbour - NE 19th Street Improvements	Design	X
Transit & Traffic Controls Asset Management	Planning	
NE 4th Streetscape	Construction	
Urban Core Plan	Planning	
NW 9th Street, Roadway and Drainage Improvements	Design and Construction	X
Riveroaks Road Connection	Design	X

CYCLE ONE SURTAX PROJECT STATUS

Ranking	Project Number	Project Type	Project Name	Project Phase	Surtax Funding	Project Status
20	FORT-122	MCP	Safety Improvements: NW 15th Ave Mobility Improvements	Construction	\$2,000,000	Finalizing Solicitation Package
32	FORT-162	MCP	Street Lighting: NW 15Th Avenue Sunrise Blvd to Mills Pond Park	Construction	\$996,668	Finalizing Solicitation Package
38	FORT-108 FORT-113	MCP	Safety Improvements: Andrews Avenue (FORT-108 bundled with FORT-113)	Planning	\$195,000	Finalizing Scope Documents
63	FORT-104	MCP	Citywide Sidewalks: Sidewalk Program - New Construction	Design	\$360,000	Deemed Ineligible
3	BC-FTLAUD-FY2020-00002	R&M	South Ocean Drive Bridge Maintenance	Construction	2,176,937	PFA Executed* (Finalizing Solicitation Package)
5	BC-FTLAUD-FY2020-00004	R&M	West Lake Drive Bridge Maintenance	Construction	\$1,617,300	Internal City Issue
27	BC-FTLAUD-FY2020-00001	R&M	Fort Lauderdale Priority Sidewalk Maintenance	Construction	\$1,252,300	Deemed Ineligible
34	BC-FTLAUD-FY2020-00003	R&M	Finger Isles Roadway Resurfacing	Construction	\$522,757	Finalizing Scope Documents

MCP: Municipal Capital Project

R&M: Repair and Maintenance Project

* Project Funding Agreement was executed before the solicitation documents were completed. The updated County process requires solicitation documents prior to the Project Funding Agreement.