

**ITEM #49**

**ADDITIONAL MATERIAL**

**Regular Meeting**

**APRIL 16, 2019**

**SUBMITTED AT THE REQUEST OF**

**OFFICE OF THE COUNTY ATTORNEY**

**MEMORANDUM**

**TO:** Board of County Commissioners

**FROM:** Angela J. Wallace, Deputy County Attorney *AJW*

**DATE:** April 15, 2019

**RE:** **Interlocal Agreement for MPO Transportation Surtax Services; Item 49 on the April 16, 2019, County Commission Agenda**  
**CAO File: 19-026.00**

The Interlocal Agreement between the County and the Broward Metropolitan Planning Organization (MPO) for Transportation Surtax Services was approved by the MPO Board on April 11, 2019 (MPO ILA). The MPO ILA provides for the MPO to review, rank, and prioritize the 709 municipal projects that are included in the Transportation Surtax Plan, approved by the County Commission on October 9, 2018, as referenced in the Transportation Surtax Interlocal Agreement among the County, MPO, and municipalities (2018 Surtax ILA), based upon each project's ability to promote connectivity and alleviate traffic congestion. The MPO ILA includes a five-year initial term with no ability to terminate during that period (absent contractual breach).

In response to requests from municipalities, a previous version of the MPO ILA had removed the 203 municipal rehabilitation and maintenance projects (involving the maintenance or rehabilitation of roads, sidewalks, bike paths, drainage, etc.) from the MPO prioritization process because those projects do not alleviate traffic congestion or enhance connectivity and therefore would not receive a prioritized ranking. Concerns regarding potential legal challenges to the previous version of the MPO ILA prompted this Office to propose language that made the County's obligations contingent upon the occurrence of specific events; the MPO rejected this proposed language. The Office proposed revised language that was approved by the MPO and included in the ILA, which language in our opinion adequately mitigates legal risk while still enabling the MPO to proceed with the start-up activities required to implement the MPO ILA.

Board of County Commissioners  
April 15, 2019  
Page 2

Pursuant to the terms of the 2018 Surtax ILA, the MPO's obligation thereunder is subject to approval of both the MPO ILA and a separate agreement among the County, MPO, and the Municipalities that establishes the methodologies and criteria pursuant to which the MPO will review, rank, and prioritize the applicable projects. It is anticipated that an amendment to the 2018 Surtax ILA will soon be prepared that will, among other things, address those methodologies/criteria and address the process for funding the 203 municipal rehabilitation and maintenance projects.

Please feel free to contact me (extension 7613) or the County Attorney with any questions or concerns regarding this matter.

AJW/hb

c: Bertha Henry, County Administrator  
Bob Melton, County Auditor  
Andrew J. Meyers, County Attorney