

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
No. ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes _____ No X _____ (Various Budgets)
 Budget Account No.: Fund _____ Department _____ Unit _____
 Object _____ Reporting Category _____


B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____


III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:


 AP 4/21 JK 4/21 OFMB


 Contract Dev. and Control 4/22/16 9/22/16

B. Legal Sufficiency:


 Paul F. J. 4/25/16
 Assistant County Attorney

C. Other Department Review:

 Department Director

Background and Policy Issues: On July 28, 2015 and November 24, 2015, the Board discussed financing infrastructure needs and directed staff to review possible funding options and hire consultants to review projects and spending. On February 9, 2016, the Board of County Commissioners (BCC) directed staff to work with the Municipalities, School District and Cultural Council, representing cultural organizations, to develop a joint plan specific to an infrastructure surtax. Further, the Board directed staff to bring back project lists from the partners. On February 24, 2016, the League of Cities Executive Board voted to not oppose a slightly different proposal which reflected 46.5% School District, 28.5% County, 18.5% Municipalities and 6.5% Economic Development for Cultural Facilities. After further analysis and review, staff refined the proposal and the School District approved the proposal described in the motion with a deadline for approval by the BCC no later than April 15, 2016. On March 22, 2016, the Board approved an infrastructure surtax plan for one cent, maximum 10 years, creation of an oversight committee to audit spending for compliance with approved projects, and the following allocations: 48% to the School District, 27.5% to the County, 18.5% to the Municipalities, 4.5% for Economic Development through Cultural Facilities, and 1.5% for Economic Development Incentives. The proceeds of such tax would finance the renewal and replacement of existing capital investments including roadway surfaces, bridges, drainage improvements, canals, park amenities, and government buildings, all of which were deferred during the recent recession and remain outstanding, and projects to maintain levels of service. An independent oversight committee would be established to insure that spending is in line with the statutory requirements.

ORDINANCE NO. 2016-_____

AN ORDINANCE IMPOSING A COUNTYWIDE LOCAL GOVERNMENT INFRASTRUCTURE SURTAX OF ONE PERCENT (1.0%) ON ALL AUTHORIZED TAXABLE TRANSACTIONS OCCURRING WITHIN PALM BEACH COUNTY, AS AUTHORIZED BY SECTION 212.055(2), FLORIDA STATUTES, EFFECTIVE BEGINNING JANUARY 1, 2017, FOR A PERIOD OF TEN YEARS; PROVIDING THAT IMPOSITION OF THE SURTAX SHALL BE CONTINGENT ON APPROVAL AT A COUNTYWIDE REFERENDUM; PROVIDING FOR DISTRIBUTION OF SURTAX REVENUES AMONG THE COUNTY, THE MUNICIPALITIES IN THE COUNTY, AND THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA; PROVIDING FOR CITIZEN OVERSIGHT; PROVIDING BALLOT LANGUAGE AND DIRECTING THE SUPERVISOR OF ELECTIONS TO HOLD A COUNTYWIDE PRECINCT REFERENDUM ELECTION ON NOVEMBER 8, 2016.

WHEREAS, Section 212.055(2), Florida Statutes (2015), authorizes the Palm Beach County Board of County Commissioners (“Board”) to impose a 0.5 percent (0.5%) or 1.0 percent (1%) local government infrastructure surtax (“Surtax”) upon transactions occurring within Palm Beach County (“County”) which are taxable under Chapter 212, Florida Statutes (2015); and

WHEREAS, a 1.0 percent (1%) Surtax would, under current State sales tax rates, result in a one cent (1¢) Surtax on each one dollar (\$1.00) sale as specifically provided by law; and

WHEREAS, the Surtax differs from the transactions subject to the State sales tax in that the local option sales tax base applies only to the first \$5,000 of the purchase price of an item of taxable personal property while the State sales tax applies to the entire purchase price regardless of amount, pursuant to section 212.054(b), Florida Statutes; and

WHEREAS, the Surtax does not apply to certain groceries, medical products and supplies, and other specifically identified goods and services listed in section 212.08, Florida Statutes; and

WHEREAS, the funds derived from the imposition of the Surtax shall be distributed to the County and the municipalities of the County (the “Municipalities”), and will include a distribution to the School Board of Palm Beach County (the “School Board”), as provided in an interlocal agreement; and

WHEREAS, moneys received from the local government infrastructure Surtax authorized by section 212.055(2), Florida Statutes (2015), may be utilized by the County, the Municipalities, and the School Board to finance, plan, construct, reconstruct, renovate and improve needed infrastructure; and

WHEREAS, the County, the Municipalities, and the School Board are presently without sufficient fiscal and monetary resources to adequately fund their respective infrastructure needs; and

WHEREAS, adequate public infrastructure facilities of the types herein described promote the safe, efficient, and uninterrupted provision of numerous essential public services provided by the County, the Municipalities, and the School Board, including but not limited to district-owned school buildings, equipment, technology and security; school buses; roads, bridges, sidewalks, streetlights, signalization, parks, recreational and governmental facilities, drainage, and wastewater facilities; and public safety vehicles and equipment; and

WHEREAS, a brief description of the projects to be funded is set forth in the ballot language contained in this Ordinance; and

WHEREAS, the County, the Municipalities, and the School Board shall each establish a citizen oversight committee to provide for citizen review of their respective expenditure of infrastructure Surtax proceeds; and

WHEREAS, in further accordance with section 212.055(2)(d)3, Florida Statutes (2015), up to fifteen percent (15%) of the Surtax proceeds may be utilized by the County to facilitate economic development projects having a general public purpose of improving the local economy, including by means of cultural facilities projects and through economic development incentives; and

WHEREAS, the County hereby finds that economic development is a vital component of a healthy community and states its intent to use a portion of the Surtax proceeds for economic development projects identified by County resolution, for the purpose of creating local jobs and/or having a general public purpose of improving the local economy.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Palm Beach County, Florida, that:

SECTION 1. INCORPORATION OF RECITALS. The above recitals are true and correct and are hereby incorporated by reference.

SECTION 2. IMPOSITION OF LOCAL GOVERNMENT INFRASTRUCTURE SURTAX. There is hereby imposed a 1.0 percent (1%) local government infrastructure surtax (“Surtax”) upon all authorized taxable transactions occurring within the County.

SECTION 3. ADMINISTRATION, COLLECTION, AND DISTRIBUTION OF PROCEEDS. The Surtax shall be administered, collected, and enforced in accordance with the provisions of section 212.054, Florida Statutes (2015), and the rules promulgated by the Florida Department of Revenue. The proceeds of the Surtax shall be distributed by the Department of Revenue directly to the County, the Municipalities, and the School Board, in accordance with an interlocal agreement.

SECTION 4. REFERENDUM ELECTION.

(a) The Surtax imposed in Section 2 hereof shall not take effect unless and until approved by a majority of the electors of the County voting in a countywide precinct referendum election on the Surtax.

(b) The Palm Beach County Supervisor of Elections is hereby directed to hold such countywide precinct referendum election on November 8, 2016.

(c) The Palm Beach County Supervisor of Elections shall cause the following proposition to be placed on the ballot:

PALM BEACH COUNTY DISTRICT SCHOOLS, CITIES AND COUNTY GOVERNMENT INFRASTRUCTURE ONE-CENT SALES SURTAX

To enhance education by improving district-owned school buildings, equipment, technology and security; purchase school buses, public safety vehicles and equipment; equip, construct and repair roads, bridges, signals, streetlights, sidewalks, parks, drainage, shoreline and wastewater infrastructure, recreational and governmental facilities; and create local jobs through economic development projects under 212.055(2)(d)(3), Florida Statutes; shall the County levy one-cent sales surtax beginning January 1, 2017 and automatically ending December 31, 2026, with oversight by citizen committees?

_____ FOR THE ONE CENT SALES TAX

_____ AGAINST THE ONE CENT SALES TAX

SECTION 5. ADVERTISEMENT. The Palm Beach County Clerk of Court shall insure that notice of this referendum shall be advertised in accordance with the provisions of section 100.342, Florida Statutes (2015). Proof of publication shall be provided to the Chair of the Board.

SECTION 6. EXPIRATION DATE; SURVIVAL OF CERTAIN RESTRICTED USES.

(a) *Sunset.* In all events, this Ordinance shall be in effect only through December 31, 2026. It shall "sunset" and expire thereafter, without further action by the Board, at which time it shall be deemed repealed and of no further force and effect, and the Surtax levied hereunder shall terminate.

(b) *Survival of restrictions on use of Surtax proceeds.* Notwithstanding the provisions of subsection (a) for the expiration and repeal of this Ordinance, so long as any Surtax proceeds shall remain unspent, the restrictions hereby imposed concerning the distribution and use of such Surtax proceeds as well as the proceeds of any borrowings payable from Surtax proceeds, and all interest and other investment earnings on either of them shall survive such expiration and repeal and shall be fully enforceable in a court of competent jurisdiction.

SECTION 7. CITIZEN OVERSIGHT.

(a) The County, the Municipalities, and the School Board shall each separately provide for the creation of citizen oversight committees ("Committee" or collectively "Committees") to provide for citizen review of their respective expenditure of Surtax Proceeds, as soon as possible after the Surtax becomes effective, but not later than the date on which Surtax funds are first expended. A Municipality may either participate in an oversight committee created by the Palm Beach League of Cities or create its own committee.

(b) The Committees shall serve as advisory and reporting bodies to the creating entities. Each creating entity shall establish specific duties and membership requirements governing Committee operations and participation.

(c) Each Committee shall have the responsibility to review the expenditure of Surtax proceeds by the entity which created it.

(d) The Committees shall meet monthly, or as otherwise needed to fulfill their duties and responsibilities. Each Committee shall provide an annual report to the governing board of the entity which created it no later than December 31 of each year for acceptance.

(e) Committee members shall receive no compensation for the performance of their duties.

(f) The Committees, their members, and all their proceedings shall be governed by and comply with the provisions of the Florida Sunshine Law, Chapter 286, Florida Statutes, the Florida Public Records Law, Chapter 119, Florida Statutes, and the Florida Ethics Code, Chapter 112, Florida Statutes, and all other applicable local or state statutes, ordinances, or rules.

SECTION 8. CODIFICATION. It is the intention of the Board that the provisions of this Ordinance, including its preamble, shall become and be made a part of the County Code of Ordinances, and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase and the sections of this Ordinance may be renumbered or relettered to accomplish such intention; provided, however, that Sections 5, 6 and 8 shall not be codified.

SECTION 9. SEVERABILITY. Should any section or provision of this Ordinance or any portion thereof, or any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid.

SECTION 10. EFFECTIVE DATE. A certified copy of this Ordinance shall be effective 10 days after its enactment by the Board and filing with the Department of State.

PASSED AND DULY ENACTED by the Board of County Commissioners of Palm Beach County, Florida in regular session, this ____ day of _____, 2016.

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK AND
COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

INTERLOCAL AGREEMENT AMONG PALM BEACH COUNTY, THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, AND THE SIGNATORY MUNICIPALITIES PERTAINING TO THE SHARED DISTRIBUTION AND USE OF THE ONE CENT LOCAL GOVERNMENT INFRASTRUCTURE SURTAX

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into as of this ___ day of _____, 2016, by and between **PALM BEACH COUNTY** (“County”), a political subdivision of the State of Florida, **THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA**, a corporate body politic of the state of Florida (“School Board”), and the signatory municipalities (collectively referred to hereinafter as “**MUNICIPALITIES**”):

WITNESSETH:

WHEREAS, pursuant to section 212.055(2), Florida Statutes (2015), the County intends to authorize by Ordinance the imposition of a one percent (1.0%) local government infrastructure sales surtax (“Surtax”) upon taxable transactions occurring in Palm Beach County and has provided for distribution of the proceeds from the Surtax subject to the outcome of a countywide referendum on November 8, 2016; and

WHEREAS, the Municipalities are located within Palm Beach County, are eligible to receive a portion of the Surtax, represent a majority of the County’s municipal population, and desire to jointly establish with the County the distribution formula for the proceeds of the Surtax in accordance with section 212.055(2)(c)(1), Florida Statutes (2015); and

WHEREAS, section 212.055(2)(c)(1), Florida Statutes (2015), provides that this Agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county’s municipal population; and

WHEREAS, the parties to this Agreement desire to work together in order to promote the safe, efficient, and uninterrupted provision of numerous essential public services provided by the County, the Municipalities, and the School Board, including but not limited to providing improvements to district-owned school buildings, equipment, technology and security; purchasing school buses; repairing, constructing and equipping roads, bridges, sidewalks, streetlights, signalization, parks, recreational and governmental facilities, drainage, and wastewater facilities; and purchasing public safety vehicles and equipment; and

WHEREAS, the parties desire to provide economic development projects and incentives as allowed under Florida Statutes; and

WHEREAS, the parties to this Agreement shall each be responsible for the adoption of project lists that will be funded from the Surtax Proceeds, subject to future revisions by the governing body of each applicable entity.

NOW THEREFORE, in consideration of the promises, covenants, and commitments contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged set forth herein, the parties agree as follows:

SECTION 1. RECITALS.

The foregoing recitals are true and correct and are hereby incorporated into and become a part of this Agreement.

SECTION 2. TERM.

This Agreement shall become effective when approved by the governing bodies of the County, the requisite number of Municipalities, and the School Board pursuant to section 212.055(2)(c)(1), Florida Statutes (2015). This Agreement shall remain in effect for the life of the Surtax imposed pursuant to the County Ordinance imposing the Surtax (the “Ordinance”)

and until all Surtax Proceeds, as defined in Section 2 below, are expended by the respective parties.

SECTION 3. DISTRIBUTION PERCENTAGES.

(a) The Surtax Proceeds, defined as the collected Surtax less the amounts retained by the Florida Department of Revenue for administrative expenses pursuant to section 212.055(2), Florida Statutes (2015), derived from the Surtax levied and imposed by the County shall be distributed by the Department of Revenue directly to the parties to this Agreement as follows:

Recipient	Share of Total Proceeds
Palm Beach County	33.5% (includes 4.5% for economic development cultural facilities and at least 1.5% for economic development incentives)
School Board of Palm Beach County, Florida	48%
Municipalities within Palm Beach County	18.5% (to be divided proportionately among them based on population in the manner as set forth in Section 218.62(3), Florida Statutes; provided that the County's share received shall be as described herein and not pursuant to Section 218.62, Florida Statutes).

(b) Distribution of the Surtax Proceeds hereunder shall be made monthly by the Department of Revenue from the Discretionary Surtax Clearing Trust Fund directly to the County, the Municipalities, and the School Board as to their respective shares of Surtax Proceeds during the term of this Agreement commencing on or about January 2017 and each month thereafter during the term of this Agreement.

SECTION 4. USE OF SURTAX PROCEEDS.

The parties to this Agreement each certify that all Surtax Proceeds shall be expended only as permitted by section 212.055(2), Florida Statutes and the ballot language of the November 8, 2016 referendum. The County, the Municipalities, and the School Board shall each be separately responsible for the adoption of project lists that will be funded from the Surtax Proceeds, subject to future revisions by the governing body of each applicable entity. Any future revisions of the resolution(s) of the individual parties shall not require an amendment to this Agreement or the joinder and consent of the other parties.

SECTION 5. CREATION OF CITIZEN OVERSIGHT COMMITTEES.

(a) The County, the Municipalities, and the School Board shall each separately provide for the creation of citizen oversight committees (“Committee” or collectively “Committees”) to provide for citizen review of their respective expenditure of Surtax Proceeds, as soon as possible after the Surtax becomes effective, but not later than the date on which Surtax funds are first expended. A Municipality may either participate in an oversight committee created by the Palm Beach League of Cities or create its own committee.

(b) The Committees shall serve as advisory and reporting bodies to the creating entities. Each creating entity shall establish specific duties and membership requirements governing Committee operations and participation.

(c) The Committees shall meet monthly, or as otherwise needed to fulfill their duties and responsibilities. Each Committee shall provide an annual report to the governing board of the entity which created it no later than December 31 of each year for acceptance.

(d) Committee members shall receive no compensation for the performance of their duties.

(e) The Committees, their members, and all their proceedings shall be governed by and comply with the provisions of the Florida Sunshine Law, Chapter 286, Florida Statutes, the Florida Public Records Law, Chapter 119, Florida Statutes, and the Florida Ethics Code, Chapter 112, Florida Statutes, and all other applicable local or state statutes, ordinances, or rules.

SECTION 6. MUTUAL COOPERATION.

Each party agrees to work cooperatively and in good faith, individually and collectively, with the other parties to this Agreement on matters that are included and beyond the scope of this Agreement.

SECTION 7. MISCELLANEOUS.

(a) This Agreement is the entire agreement between the parties and all understandings and agreements are incorporated in this Agreement. This Agreement supersedes any prior agreements between the parties relating to Surtax.

(b) Nothing contained in this Agreement shall be construed to create the relationship of principal and agent, partnership, joint venture or any other relationship between the parties hereto.

(c) The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

(d) Each party shall maintain its own respective records and documents associated

with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

(e) In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

(f) This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida without regard to its conflict of laws provisions. The parties agree that any controversies or legal disputes arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Fifteenth Judicial Circuit of Palm Beach County, Florida.

(g) A copy of this Interlocal Agreement and all subsequent amendments hereto shall be filed with the Clerk of the Circuit Court of Palm Beach County, Florida, upon its execution by all parties hereto.

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized representative, have caused this Local Government Infrastructure Surtax Interlocal Agreement to be duly executed in counterparts by their respective and duly authorized officers as of the date set forth above.

PALM BEACH COUNTY, FLORIDA

By: _____
Mary Lou Berger
Mayor

(SEAL)

ATTEST:

Sharon R. Bock, Clerk & Comptroller
Circuit Court

By: _____
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:  _____
County Attorney

**THE SCHOOL BOARD OF PALM BEACH
COUNTY, FLORIDA**

By: _____
Chuck Shaw, Chairman

By: _____
Robert M. Avossa, Ed.D., Superintendent

(SEAL)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
School Board Attorney

CITY OF _____, FLORIDA

By: _____

Name: _____

Title: _____

Proposed Cultural Facilities Surtax General Criteria

1. Cultural facilities projects must have a general purpose of improving local economies and create temporary and permanent jobs.
2. Cultural facilities capital projects shall be limited to those projects that provide access and education of the arts, humanities, and science. Programs supported by facilities funded under the surtax shall enhance educational opportunities for school age children, including, but not limited to Title I schools.
3. Funding for cultural facilities shall be limited to only capital projects. Capital projects are defined in general as those projects involving facilities and integral facility components with a life expectancy of five (5) years or more. Determinations as to the projects' eligibility for funding shall be made by the County.
4. Surtax funding may be provided to governmental owned facilities and not-for-profit agencies with active Articles of Incorporation filed with the Florida Secretary of State's office.
5. All projects are required to be open to the public on a non-discriminatory basis.
6. All capital facility project funding provided under the surtax must be matched by the recipient at least on a 1 to 1 ratio. There may be exceptions for facilities in Rural Economic Development Initiative (REDI) areas and very low income neighborhoods. Maximum surtax funding per project will not exceed \$15 million.
7. Project completion milestones within the project term may be included in funding agreements. Applicants must demonstrate ability and/or plan to successfully operate facility well into the future upon execution of the capital project. Upon project completion, facility will remain in operation for a minimum of fifteen (15) years.
8. A full description of the capital project approved for funding must be a part of the project agreement and is included within the agreement as exhibits, as follows: a project description, a cost estimate, a conceptual site plan, a legal description, and a description of pre-agreement costs, if any. Funding must be used for either the costs of acquisition and construction of, or improvements to, cultural facilities located in Palm Beach County.
9. The County must approve each project's plans and cost estimate prior to construction.
10. Project reimbursements are made once the project phase is completed, per funding agreement.

11. All projects will require that responsible recipients indemnify the County to the extent permitted under law and carry liability, property, and other insurance coverages as described in the funding agreement.
12. Criteria included in this document are intended as general criteria applicable to all projects. Additional requirements and project specific criteria may be applied to project selection and funding agreements.

4-28-16

PROPOSED ECONOMIC DEVELOPMENT INCENTIVES GENERAL CRITERIA

1. Economic Development Projects must have a general purpose of improving local economies.
2. Economic Development Projects must meet the County's primary business clusters: Corporate Headquarters, Aviation/Aerospace, Bioscience, Distribution and Logistics, IT/Telecommunications, Manufacturing, Marine Industry, Clean Technology, International Commerce and Agribusiness. The County may amend the business cluster from time to time.
3. Economic Development Projects must define the number of jobs created and the time period for when the jobs will be created. The created jobs must be retained for a period of five (5) years from date of creation.
4. Economic Development Project proposals must include the average and median salary of the created jobs.
5. Economic Development Projects must submit audited financial statements and tax returns; three (3) years is desired. Startup companies or retail developments will not be considered.
6. Economic Development Project proposals must include its ability to leverage other incentive funds, including state and municipal share of required local match.
7. Economic Development Project proposals must include the capital investment to be made, including property acquisition, new construction, renovations, machinery and equipment.
8. Economic Development Project proposals must include an acceptable five (5) year Economic Impact based on the Regional Economic Model Inc. (REMI) results for Palm Beach County.
9. The five (5) year economic impact shall meet or exceed \$50 Million based on the Regional Economic Model Inc. (REMI) for Palm Beach County as determined by the Department of Economic Sustainability.