MEMORANDUM

Agenda Item No. 7(A)

TO:	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners	**DATE:**	March 15, 2011
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Ordinance relating to the CITT and the PTP to allow Charter County and Regional Transportation System Surtax funds to be expended for on-demand transportation services for low income seniors

This Ordinance was amended at the Regional Transportation Committee meeting of February 7, 2011 to limit the use of Charter County Transportation Surtax Funds for on-demand transportation services to those trips which are pre-arranged 24 hours in advance.

The accompanying ordinance was prepared and placed on the agenda at the request of Co-Prime Sponsors Commissioner Bruno A. Barreiro and Chairman Joe A. Martinez and Co-Sponsor Commissioner Sally A. Heyman.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum COUNTY

Date: March 15, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Fiscal Impact for Ordinance allowing Charter County and Regional Transportation System Surtax funds to be expended for On-Demand transportation services

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The proposed ordinance will allow the usage of Charter County and Regional Transportation System Surtax funds to be expended for On-Demand transportation services for low-incomes seniors and individuals with disabilities within municipalities. At this time it is difficult to quantify whether there will be an impact to the County. To a large extent, this ordinance allows municipalities to use PTP funding to provide these services that had previously been funded through other sources.

Ysela Llort
Assistant County Manger

Fis1811

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: March 15, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 7(A)

Please note any items checked.

_____	**"3-Day Rule" for committees applicable if raised**
✓	**6 weeks required between first reading and second reading (per Ordinance No. 02-116 & 02-117)**
✓	**4 weeks notification to municipal officials required prior to public hearing**
_____	**Decreases revenues or increases expenditures without balancing budget**
_____	**Budget required**
_____	**Statement of fiscal impact required**
_____	**Ordinance creating a new board requires detailed County Manager's report for public hearing**
_____	**No committee review**
_____	**Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**
_____	**Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated)**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(A)
3-15-11

ORDINANCE NO. _____

ORDINANCE AMENDING CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST (TRUST) AND THE PEOPLE'S TRANSPORTATION PLAN TO ALLOW CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SURTAX FUNDS TO BE EXPENDED FOR ON-DEMAND TRANSPORTATION SERVICES FOR LOW-INCOME SENIORS AND INDIVIDUALS WITH DISABILITIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, on July 9, 2002, the Board of County Commissioners adopted Ordinance 02-116, approving, subject to voters' approval, the levying of a one half percent surtax for the development and construction of new transit and transportation projects throughout Miami-Dade County; and

WHEREAS, on November 5, 2002, the voters of Miami-Dade County agreed to a one half percent surtax in order to implement the projects outlined in Exhibit One to Ordinance 02-116; and

WHEREAS, twenty percent of surtax proceeds are distributed to municipalities within Miami-Dade County for use on transit and transportation projects, with twenty percent of that amount designated for transit projects; and

WHEREAS, the Florida Legislature recently amended the underlying statutory scheme in order to allow surtax funds to be spent on on-demand transportation services; and

WHEREAS, municipalities within Miami-Dade County including the City of Miami have concluded that on-demand service would augment transit services and increase mobility and access to businesses and services for certain segments of the population,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Article XCVII of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

ARTICLE XCVII.

CITIZENS' INDEPENDENT TRANSPORTATION TRUST

Sec. 2-1421. Citizens' Independent Transportation Trust created; powers over expenditure and use of proceeds of proposed Charter County Transit System Surtax.

* * *

(g) *Powers and duties.* The Trust shall have the following duties, functions, powers, responsibilities and jurisdiction with regard to use and expenditure of proceeds of any Charter County Transit System Surtax that is levied by the County under authority of Section 212.055(1), Florida Statutes:

(1) To monitor, oversee, review, audit, and investigate implementation of the transportation and transit projects listed in any levy of the surtax, and all other projects funded in whole or in part with surtax proceeds;

(2) To assure compliance with any limitations imposed in the levy on the expenditure of surtax proceeds, including but not limited to:

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[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(a) Any limitation that surtax proceeds only be expended for the transportation and transit purposes specified in Section 212.055(1)(d)1-4, Florida Statutes [[~~(2001)~~]] >>(2010)<<;

(b) Any limitation that no more than five (5) percent of surtax proceeds be expended on administrative costs, exclusive of project management and oversight for projects funded by the surtax;

(c) The limitation that the County Commission may not delete or materially change any County project listed in the approved Five Year Implementation Plan or on Exhibit 1 attached to the ordinance levying the surtax nor add any project thereto except as provided in this subsection (c) and Section 29-124(d)(e). A proposed deletion, material change or addition of such a County project shall be initially reviewed by the Citizens' Independent Transportation Trust ("Trust"), which shall forward a recommendation thereon to the County Commission. The County Commission may either accept or reject the Trust's recommendation. If the County Commission rejects the recommendation, the matter shall be referred back to the Trust for its reconsideration and issuance of a reconsidered recommendation to the County Commission. The County Commission may approve, change or reject the Trust's reconsidered recommendation. A two-thirds (2/3) vote of the Commission membership shall be required to take action other than as contained in the reconsidered recommendation of the Trust. The foregoing notwithstanding, the list of County projects contained in said Exhibit 1 and the Five Year Implementation Plan may be changed as a result of the MPO process as mandated by federal and state law; and

(d) Any requirement with regard to maintenance of effort of general fund support for MDTA.

(3) To assure compliance with federal and state requirements applicable thereto;

(4) To require monthly reports from the Manager, County agencies and instrumentalities regarding the implementation of the projects funded by surtax proceeds (which reports shall be posted on-line, i.e., made publicly accessible on the Internet);

(5) To file a report, including any recommendations, with the Mayor and the County Commission on a quarterly basis regarding the implementation of the projects funded by surtax proceeds;

(6) To monitor, oversee and periodically report to the County Commission on the level of participation by CSBEs and CBEs in contracts funded in whole or in part with surtax proceeds, and to recommend ways to increase such participation; and

(7) Notwithstanding any provision to the contrary, to retain the services of consultants the Trust deems necessary to assist in its monitoring functions without the need for action by the County Commission, so long as the retaining of such consultants does not result in the budget for the Trust exceeding the amount approved by the County Commission during the annual budget approval process.

Section 2. Section 29-124 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 29-124. Special fund created; uses of surtax proceeds; and role of Citizens' Independent Transportation Trust.

The surtax proceeds collected by the State and distributed hereunder shall be deposited in a special fund set aside from other County funds in the custody of the Finance Director of the County.

Moneys in the special fund shall be expended for the transportation and transit projects (including operation and maintenance thereof) set forth in Exhibit 1 to this article (including those projects referenced in the ballot question presented to the electors to approve this levy) and the adopted Five Year Implementation Plan, subject to any amendments thereto made in accordance with the MPO process or made in accordance with the procedures specified in subsection (d) of this Section.

Expenditure of surtax proceeds shall be subject to the following limitations:

(a) Surtax proceeds shall be applied to expand the Golden Passport Program to all persons (regardless of income level who are over the age of 65 or are drawing Social Security benefits, and to provide fare-free public transportation service on Metromover, including extensions.

(b) Surtax proceeds may only be expended for the transportation and transit purposes specified in Section 212.055(1)(d)1-4, Florida Statutes [[~~(2001)~~]] >>(2010).<<

(c) The County shall not expend more than five percent of the County's share of surtax proceeds on administrative costs, exclusive of project management and oversight for projects funded by the surtax.

(d) The Trust shall in consultation with the Mayor recommend to the County Commission a Five Year Implementation Plan. The Five Year Implementation Plan shall include a detailed scope of work, schedule and budget, consistent with the federal requirements for the MPO TIP and Long Range Plan, for each project included in Exhibit 1 of the People's Transportation Plan, as amended, anticipated to be implemented in whole or in part during the five year period. The Five Year Implementation Plan shall be approved by the County Commission in accordance with the procedures established in paragraph (f) of this Section. The initial Five Year Implementation Plan shall be approved no later than January 1, 2011. The Five Year Implementation Plan shall be updated

annually no later than thirty days from the commencement of Miami-Dade County's fiscal year. The Trust shall review and monitor projects included in the Five Year Implementation Plan and provide to the County Commission and post online an annual report no later than December 31 of each year. The annual report shall detail the progress on each project included in the Five year Work Plan.

(e) The County Commission shall not delete or materially change any County project contained in the list attached as Exhibit 1 to this article nor add any project to the list or delete, materially change or add any project to the Five Year Implementation Plan except in accordance with the procedures set forth in this subsection (e). The Five Year Implementation Plan and any proposed deletion, material change or addition of a County project shall be initially reviewed by the Citizens' Independent Transportation Trust ("Trust"), which shall forward a recommendation thereon to the County Commission. The County Commission may either accept or reject the Trust's recommendation. If the County Commission rejects the recommendation, the matter shall be referred back to the Trust for its reconsideration and issuance of a reconsidered recommendation to the County Commission. The County Commission may approve, change or reject the Trust's reconsidered recommendation. A two-thirds vote of the Commission membership shall be required to take action other than as contained in the reconsidered recommendation of the Trust. The foregoing notwithstanding, the list of County projects contained in Exhibit 1 and the Five Year Implementation Plan may be changed as a result of the MPO process as mandated by federal and state law.

(f) No surtax proceeds may be used to pay the costs of a contract unless the Trust has submitted a recommendation to the County Commission regarding said contract award. The County Commission, if in agreement with the Trust's recommendation, may award a contract by majority vote. The County Commission may modify or

reject the recommendation of the Trust by a two thirds (2/3) vote of the Commission's membership. If the Trust has failed to forward a recommendation to the County Commission within 45 days of the County Mayor or his designee filing his award recommendation with the Clerk of the Board, the County Commission may take action on the contract award recommendation without any Trust recommendation. Notwithstanding any other provision to the contrary, a committee of the Commission may consider a contract award recommendation prior to receipt of a recommendation of the Trust. The Trust shall, in consultation with the County Mayor or his designee, schedule Trust meetings monthly so as to ensure that a Trust recommendation is provided to the Commission with the Commission's agenda package.

(g) On a quarterly basis, the Executive Director of the CITT shall submit a written report to the Commission, the Mayor and the Manager of all expenditures made pursuant to Section 29-124 herein.

(h) Twenty percent of surtax proceeds shall be distributed annually to those cities existing as of November 5, 2002 that meet the following conditions:

(i) That continue to provide the same level of general fund support for transportation that is in their FY 2001-2002 budget in subsequent Fiscal Years. Any surtax proceeds received shall be applied to supplement, not replace a city's general fund support for transportation;

(ii) That apply 20 percent of any surtax proceeds received to transit uses in the nature of circulator buses, bus shelters, bus pullout bays>>, on-demand transportation services as defined in Section 212.055(1)(e), Florida Statutes (2010),<< or other transit-related infrastructure. >>The use of surtax proceeds for on-demand transportation

services shall be limited to providing transportation to Miami-Dade County residents whose household income do not exceed the standard threshold applied to determine eligibility for the low-income, senior citizen's additional homestead exemption outlined in Section 196.075, Florida Statutes (2010), as amended from time to time and meet at least one of the following two criteria: (1) are aged 65 years or older or (2) have a disability, as defined in the Americans with Disabilities Act of 1990 (ADA).<< >>Notwithstanding any provision to the contrary, on-demand transportation services as defined in Section212.055(1)(e) Florida Statutes (2010), and used herein, shall require 24-hour pre-arranged service by recipients.<< [2]Any city that cannot apply the 20 percent portion of surtax proceeds it receives as provided in [[~~the preceding sentence~~]] >>this paragraph<<, may contract with the County for the County to apply such proceeds on a County project that enhances traffic mobility within that city and immediately adjacent areas. If the city cannot expend such proceeds in accordance with >>this paragraph and does not contract with the County as described in this paragraph<< [[~~either of the preceding sentences~~]], then such proceeds shall carry over and be added to the overall portion of surtax proceeds to be distributed to the cities in the ensuing year and shall be utilized solely for the transit uses enumerated in this subsection (ii); and

(iii) Surtax proceeds distributed amongst the existing cities shall be distributed on a pro rata basis based on the ratio such city's population bears to the total population in all such cities (as adjusted annually in accordance with the Estimates of Population

[2] Committee amendments are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

prepared by the Bureau of Economic and Business Research of the University of Florida) annually to those cities that continue to meet the foregoing conditions. For purposes of the foregoing, whenever an annexation occurs in an existing city, the number of persons residing in such annexed area at the time it is annexed shall be excluded from all calculations. Increases in population in areas annexed over and above the population in such area at the time of annexation which occur after annexation shall be included in subsequent years' calculations.

(iv) [[t]]>>T<<hat do not expend more than 5% of its municipal share of surtax proceeds on administrative costs, exclusive of project management and oversight for projects funded by the surtax. Administrative costs shall be defined as overhead expenses which are not readily attributable to any one particular project funded in whole or in part by transit surtax funds.

(i) Newly incorporated municipalities shall have the right to negotiate with the County for a pro rata share of the sales surtax, taking into consideration the neighborhood and municipal projects identified in Exhibit 1, as amended, within the boundaries of the new municipalities. The preceding sentence shall not affect the twenty (20) percent share provided herein for municipalities existing on November 5, 2002.

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may

be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective within ten (10) days of adoption by this Board unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:
Bruce Libhaber

Co-Prime Sponsor: Commissioner Bruno A. Barreiro
Co-Prime Sponsor: Chairman Joe A. Martinez
Co-Sponsor: Commissioner Sally A. Heyman