

MEMORANDUM

CPC
Substitute No. 2 to
Agenda Item No. 1(G)1

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: January 18, 2018

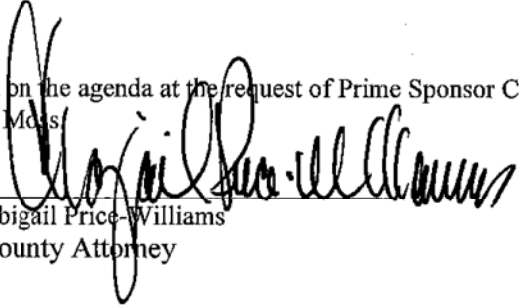
FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance related to tax increment financing and transportation infrastructure development; creating article CLIX of chapter 2 of the Code; creating the Miami-Dade County Transportation Infrastructure Improvement District; providing that the District shall be within a certain distance of proposed alignments of the Strategic Miami Area Rapid Transit ("SMART") Plan rapid transit corridors; establishing a Trust Fund; defining SMART Plan rapid transit corridor projects eligible for Trust Fund revenues; limiting the use of Trust Fund revenues to the development, construction, maintenance, and operation of SMART Plan rapid transit corridor projects; providing for the funding of the Trust Fund from tax increment revenues within the District

This Substitute No. 2 differs from Substitute No. 1 in that it:

1. Adds definitions for SMART Plan rapid transit corridor projects and Taxable Valuation and amends other definitions for clarification purposes;
2. Eliminates Exhibit A and clarifies that the geographical boundaries of the District and the legal descriptions of the real properties included therein shall be based on the Property Appraiser's 2017 first certified tax roll;
3. Requires that the Miami-Dade County Department of Regulatory and Economic Resources or its successor department keep on file a document listing the real properties within the District;
4. Amends how the Increment shall be calculated;
5. Clarifies that Section 2-11.21, regarding the use of Unincorporated Municipal Service Area revenues, shall not be applicable;
6. Amends Section 2-2365, regarding the permitted uses of the Trust Fund monies, to allow for certain maintenance costs of the Metrorail System and to eliminate the two-thirds vote requirement for Bus Rapid Transit; and
7. Corrects scrivener's errors.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Chairman Esteban L. Bovo, Jr. and Co-Sponsor Commissioner Dennis C. Moss.


Abigail Price-Williams
County Attorney

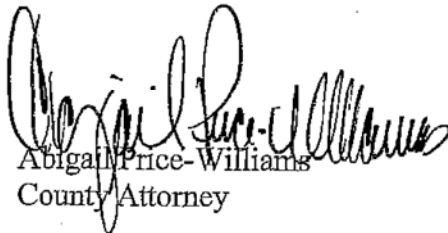
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MEMORANDUM
(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: January 23, 2018

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor'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) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No.
1-23-18

ORDINANCE NO. _____

ORDINANCE RELATED TO TAX INCREMENT FINANCING AND TRANSPORTATION INFRASTRUCTURE DEVELOPMENT; CREATING ARTICLE CLIX OF CHAPTER 2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CREATING THE MIAMI-DADE COUNTY TRANSPORTATION INFRASTRUCTURE IMPROVEMENT DISTRICT; PROVIDING THAT THE DISTRICT SHALL BE WITHIN A CERTAIN DISTANCE OF PROPOSED ALIGNMENTS OF THE STRATEGIC MIAMI AREA RAPID TRANSIT (“SMART”) PLAN RAPID TRANSIT CORRIDORS; ESTABLISHING A TRUST FUND; DEFINING SMART PLAN RAPID TRANSIT CORRIDOR PROJECTS ELIGIBLE FOR TRUST FUND REVENUES; LIMITING THE USE OF TRUST FUND REVENUES TO THE DEVELOPMENT, CONSTRUCTION, MAINTENANCE, AND OPERATION OF SMART PLAN RAPID TRANSIT CORRIDOR PROJECTS; PROVIDING FOR THE FUNDING OF THE TRUST FUND FROM TAX INCREMENT REVENUES WITHIN THE DISTRICT; PROVIDING FOR REPEAL; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, South Florida has consistently ranked as one of the most heavily congested regions in the country for automobile traffic, and in 2010 was ranked as the worst east coast metropolitan area for traffic; and

WHEREAS, accordingly, it is imperative for the betterment of our community and economic growth that the federal, state and local governments work together to improve existing public transit systems, to move forward with new public mass transit projects, and to develop cost-effective and innovative solutions to fund new public transportation infrastructure; and

WHEREAS, the Miami-Dade Metropolitan Planning Organization (“MPO”), now known as the Transportation Planning Organization, through its Transit Solutions Committee, received

and considered input from transportation partner agencies, elected officials, and the public at large in order to designate six rapid transit corridors as a high priority; and

WHEREAS, on February 16, 2016, the MPO Governing Board adopted Resolution #06-16 establishing a policy to set as highest priority for the community the advancement of rapid transit corridors and transit supportive projects in Miami-Dade County; and

WHEREAS, rapid transit is a form of high-speed urban passenger transportation such as heavy rail, light rail, commuter rail, or bus rapid transit on a dedicated lane; and

WHEREAS, on April 21, 2016, the MPO Governing Board adopted Resolution #26-16 endorsing the Strategic Miami Area Rapid Transit (“SMART”) Plan, an initiative to advance six rapid transit corridors ~~[[along with a network system of Bus Express Rapid Transit service]]~~¹ in order to implement mass transit projects in Miami-Dade County; and

WHEREAS, the six SMART Plan rapid transit corridors are the: Beach Corridor, East-West Corridor, Kendall Corridor, North Corridor, Northeast Corridor, and South Dade Transitway; and

WHEREAS, the MPO Governing Board also directed the MPO Executive Director to work with the MPO Fiscal Priorities Committee to determine the costs and potential funding sources for project development and environment studies for the projects, and to take all necessary steps to implement the SMART Plan; and

¹ The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or ~~[[double bracketed]]~~ are deleted, words double underlined and/or >>double arrowed<< are added.

WHEREAS, on May 12, 2016, the Citizens' Independent Transportation Trust expressed its support for the SMART Plan and for the use of Charter County Transportation Surtax funds for the necessary project development and environment studies; and

WHEREAS, on June 7, 2016, this Board adopted Resolution No. R-523-16 endorsing the SMART Plan as approved by the MPO; and

WHEREAS, implementation of the SMART Plan, in whole or in part, has countywide significance; and

WHEREAS, a tool to help finance the SMART Plan >>rapid transit corridor<< projects involves the creation of >>a<< locally designated tax increment financing district[[s]], which would allow the County to utilize—or pledge through the issuance of bonds—future ad valorem tax revenue increases in a designated area to help fund the SMART Plan >>rapid transit corridor<< projects; and

WHEREAS, as transportation infrastructure improvements are implemented in a tax increment financing district, properties within one-half mile of such transportation infrastructure improvements are likely to increase in value, thereby generating incremental property tax revenues; and

WHEREAS, tax increment financing has been used by other counties throughout Florida, including Escambia County, Orange County and Pasco County, to fund transportation infrastructure; and

WHEREAS, the Miami-Dade County Home Rule Charter and section 125.01, Florida Statutes, empower[[s]] the Board of County Commissioners to provide and operate public transportation systems; levy and collect taxes; borrow and expend money; and issue bonds, revenue certificates, and other obligations of indebtedness; and

WHEREAS, this Board finds that there exist~~[[s]]~~ limited transportation options and increasing traffic congestion within the SMART Plan >>rapid transit corridors<< ~~[[Corridors]]~~; and

WHEREAS, the improvement of these transportation conditions through funding of rapid transit infrastructure improvements and operations is a proper matter of County policy and concern and is a valid and desirable public purpose; and

WHEREAS, this Board finds that using tax increment financing to fund transportation infrastructure improvements and operations will enable the County to maintain and grow its economic competitiveness while maintaining and improving its residents' high quality of life, and robust multimodal transportation systems are key to the County's economic vitality for existing and future residents, workers and visitors and can positively impact the health, safety, and welfare of the residents of the County; and

WHEREAS, this Board desires to utilize tax increment financing to fund transportation infrastructure improvements and operations for the development and/or operation of the SMART Plan,

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

Section 1. The foregoing recitals are deemed true and correct and are hereby incorporated into this ordinance.

Section 2. Article ~~[[CLIV]]~~ >>CLIX<< of Chapter 2 of the Miami-Dade County Code of Ordinances is hereby created to read:

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Section 2-2361 Findings and Declaration of Necessity

It is hereby found and declared that (i) there exist~~[[s]]~~ limited transportation options and increasing traffic congestion within the Strategic Miami Area Rapid Transit (“SMART”) Plan >>rapid transit corridors<< ~~[[Corridors]]~~; (ii) the improvement of these transportation conditions through funding of rapid transit infrastructure improvements and operations is a proper matter of Miami-Dade County policy and concern and is a valid and desirable public purpose; (iii) implementation of the SMART Plan >>rapid transit corridor<< projects, in whole or in part, has countywide significance; (iv) a tool to help finance SMART Plan >>rapid transit corridor<< projects involves the creation of >>a<< locally designated tax increment financing district~~[[s]]~~, which would allow Miami-Dade County to utilize—or pledge through the issuance of bonds—future ad valorem tax revenue increases in a designated area to help fund SMART Plan >>rapid transit corridor<< projects; (v) as transportation infrastructure improvements are implemented in a tax increment financing district, properties within one-half mile of such transportation infrastructure improvements are likely to increase in value, thereby generating incremental property tax revenues; (vi) robust multimodal transportation systems are key to Miami-Dade County’s economic vitality for existing and future residents, workers and visitors and can positively impact the health, safety, and welfare of ~~[[the]]~~ Miami-Dade County residents; and (vii) using tax increment financing to fund transportation infrastructure improvements and operations will enable Miami-Dade County to maintain and grow its economic competitiveness while maintaining and improving its residents’ high quality of life.

Section 2-2362 Definitions

In construing the provisions of this article, where the context will permit and no definition is provided herein, the definitions provided in the National Transit Database Glossary shall apply. As used in this Article the following terms shall have the following meaning:

- (a) “Bus rapid transit” shall mean a bus-based transit system that consists, at a minimum, of >>semi-exclusive or<< exclusive right-of-way, traffic signal priority, off-board fare collection, elevated platforms, defined stations, and short headway bidirectional services for a substantial part of weekdays and weekend days.
- (b) “Commuter rail” shall mean a transit mode that is an electric or diesel propelled railway for urban passenger train service consisting of local short distance travel operating on a regular basis between a central city and adjacent suburbs, within urbanized areas, or between urbanized areas and outlying areas.

- (c) "Heavy rail" shall mean a transit mode that is an electric railway with passenger railcars operating on fixed rails in ~~>>semi-exclusive or<<~~ exclusive right-of-way from which all other vehicular and foot traffic are excluded, and where vehicle power is drawn from overhead lines or third rails.
- (d) "Light rail" shall mean a transit mode that consists of an electric railway with passenger railcars operating on fixed rails in shared~~>>~~, ~~semi-exclusive,~~ or exclusive right-of-way and where vehicle power is drawn from an overhead electric line.
- (e) "Rolling stock" shall mean transit vehicles, such as buses, vans, cars, trains, railcars, light rail vehicles, locomotives, trolley cars and buses, ferry boats, and vehicles used on guideways and incline planes.
- (f) "Strategic Miami Area Rapid Transit Plan" or "SMART Plan" shall mean the initiative to advance six rapid transit corridors ~~[[along with a network system of bus rapid transit]]~~ in order to implement mass transit projects in Miami-Dade County as adopted by the Board of County Commissioners (the "Board") pursuant to Resolution No. R-523-16.

~~>>~~(g) "SMART Plan rapid transit corridors" shall mean the Beach Corridor, East-West Corridor, Kendall Corridor, North Corridor, Northeast Corridor, and South Dade Transitway, as those corridors have been defined and depicted in the SMART Plan.~~<<~~

~~>>~~(h)~~<<~~ ~~[[e]]~~ "SMART Plan rapid transit corridor projects" shall mean the ~~>>~~development, construction, operation or maintenance of the~~<<~~ Beach Corridor, East-West Corridor, Kendall Corridor, North Corridor, Northeast Corridor, and South Dade Transitway, wherein such ~~>>~~corridors~~<<~~ ~~[[projects]]~~ consist of a form of high-speed urban passenger transportation limited to heavy rail, light rail, commuter rail, or bus rapid transit.

~~>>~~(i) "Taxable Valuation" shall mean the taxable value of all real property within the Miami-Dade County Transportation Infrastructure Improvement District, based on the Property Appraiser's preliminary tax roll.~~<<~~

~~>>~~(j)~~<<~~ ~~[[h]]~~ "Transit" shall mean public transportation.

Section 2-2363 Transportation Infrastructure Improvement District Created.

The Miami-Dade County Transportation Infrastructure Improvement District (the

“District”) is hereby established. The District shall include all properties wholly or partially located within 1/2 mile of the proposed alignments>>, pursuant to Resolution No. R-523-16, << of the ~~[[Strategic Miami Area Rapid Transit~~ ~~(“SMART”)] Plan rapid transit corridors, except for the East-West Corridor ~~[[, as shown in Exhibit A, which shall be maintained by the Miami-Dade County Department of Regulatory and Economic Resources or its successor department]]~~~~. With respect to the East-West Corridor, all properties wholly or partially located within 1 mile of the proposed alignment, >>pursuant to Resolution No. R-523-16, << ~~[[as shown in Exhibit A,]]~~ shall be included within the District. >>If any portion of a parcel of real property is located within the geographical boundaries of the District, the whole parcel shall be deemed to be located within the District.

The geographical boundaries of the District and the legal descriptions of the real properties included therein shall be based on the Property Appraiser’s 2017 first certified tax roll as of October 26, 2017. A document listing the real properties that are within the boundaries of District, in accordance with this section, shall be kept on file with the Miami-Dade County Department of Regulatory and Economic Resources or its successor department.<<

~~[[Any proposed changes to the alignment of the SMART Plan rapid transit corridors after the effective date of this ordinance shall be subject to Board approval by resolution.]]~~

Section 2-2364 Transportation Infrastructure Improvement District Trust Fund.

- (a) The Miami-Dade County Transportation Infrastructure Improvement District Trust Fund (the “Trust Fund”) is hereby established. Subject to annual appropriation by the Board >>and notwithstanding Section 2-11.21 of the Code<<, ~~[[the County shall annually pay into the Trust Fund the increment, which shall be that amount equal to a percentage, between 25 and 50 percent as set annually by the Board through resolution no later than by May 31st of each year, of the difference between.]]~~ >>beginning in tax year 2018 and for each year thereafter, if the Taxable Valuation increases more than 3 percent from the previous tax year, the amount of ad valorem Countywide tax revenue that would be generated from the portion of the increase in Taxable Valuation exceeding 3 percent (an amount hereinafter referred to as the “Increment”), excluding any amount from debt service millage and any amount derived from properties located within Community Redevelopment Areas established in accordance with Chapter 163, Florida Statutes, (“CRA”) for the duration of the County’s legal obligation to contribute into the CRA trust funds, shall be deposited into the Trust Fund.

By resolution, and subject to annual appropriation, the Board may authorize the calculation of the Increment as described above to also include the taxes levied on behalf on the Unincorporated Municipal Service Area.

The Increment as calculated beginning with the 2018 tax year shall be deposited by January 1, 2019 and by January 1 each year thereafter.<<

~~[[i. the amount of ad valorem taxes levied each year by the County in countywide taxes and in taxes levied on behalf of the Unincorporated Municipal Service Area, exclusive of any amount from debt service millage and any amount derived from properties located within Community Redevelopment Areas established in accordance with Chapter 163, Florida Statutes, (“CRA”) for the duration of the County’s legal obligation to contribute into the CRA trust funds; and~~

~~ii. the amount of ad valorem taxes which would have been generated each year by the County in countywide taxes and in taxes levied on behalf of the Unincorporated Municipal Service Area, exclusive of any debt service millage and any amount derived from properties located within CRAs for the duration of the County’s legal obligation to contribute into the CRA trust funds, upon the total of the assessed value of the taxable real property in the District as shown upon the most recent assessment roll used in connection with the taxation of such property by the County prior to the effective date of this ordinance (the “Base Year”).]]~~

~~[[This amount, calculated as described above, shall be referred to as the “Increment.” In the event that the Board approves changes to the District based upon movement of the proposed alignments of the SMART Plan rapid transit corridors, the Increment shall continue to be calculated based upon the same Base Year but as to the assessed value of the taxable real property in the changed District.]]~~

~~[[**(b)** Consistent with Section 2-11.21, any portion of the Increment from taxes levied on behalf of the Unincorporated Service Area shall be utilized solely for eligible expenses in Section 2-2365 for SMART Plan rapid transit corridor projects within the Unincorporated Municipal Service Area.]]~~

~~[[e)] In the event that any bond, note or other form of indebtedness, including advances and pledging, obligate the Increment, the percentage used for the above referenced calculation shall be set by the Board and shall not be adjusted so long as there is outstanding indebtedness pledging the Increment.]]~~

[[~~(e)]~~] >>(b)<< The County shall~~[[, by October 1st of each year,]]~~ appropriate to the Trust Fund so long as there is outstanding indebtedness pledging the Increment which has been approved by this Board, a sum that is no less than the Increment. In no year shall the County's obligation to the Trust Fund exceed the amount of that year's Increment. The County's Increment contribution is to be accounted for as separate revenue within the Fund but may be combined with other revenues for the purpose of paying debt service. The Board must approve the amount, duration of the obligation and the purpose of any bond, note or other form of indebtedness, including advances, pledging or otherwise obligating the Increment.

Section 2-2365 Permitted Use of Funds.

Moneys in the Trust Fund may be expended from time to time to pay for the development, construction, maintenance, and/or operation of the SMART Plan rapid transit corridor projects, including but not limited to:

- (a) expenses of development planning, professional fees, surveys and financial analysis;
- (b) initial construction and reconstruction costs of the stations, stops, terminals, or intermodal facilities; parking facilities; guideway and tracks; sitework and special conditions; signals and systems; utility relocation; and any other facility or special conditions necessary for the implementation of the SMART Plan rapid transit corridor projects;
- (c) the acquisition or lease of real property, rights-of-way, easements, and/or other property interests and/or improvements thereto, including but not limited to rail corridor easement payments for a SMART Plan rapid transit corridor project that uses a rail corridor owned by a third party;
- (d) the initial and replacement costs of the rolling stock;
- (e) the clearance and preparation of property for development;

- (f) relocation of site occupants in order to utilize property;
- (g) annual cost of operations for the SMART Plan rapid transit corridor projects;
- (h) annual cost of maintenance for the SMART Plan rapid transit corridor projects;
- (i) replacement capital costs and maintenance costs for the SMART Plan rapid transit corridor projects;
- (j) the repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes and any other form of indebtedness;
- (k) all expenses incidental to or connected with the issuance, sale, redemption, retirement or purchase of ~~[[agency]]~~ bonds, bond anticipation notes or other form of indebtedness, including funding of any reserve, redemption or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes or other form of indebtedness;
- (l) lump sum and/or periodic payments under a private public partnership agreement or an agreement with another government entity >>for the development, construction, maintenance, and/or operation of the SMART Plan rapid transit corridor projects<<; and/or
- (m) ~~[[Trust Fund moneys may only be used for bus rapid transit purposes if approved by a two-thirds vote of the membership of the Board.]]~~ >>cost of maintenance, not to exceed in total for that year 20 percent of that year's Increment, for any portion of the Metrorail System in existence as of the effective date of this ordinance so long as such maintenance is necessary in order to operate any portion of any of the SMART Plan rapid transit corridor projects.<<

~~[[In no event shall Trust Fund moneys be used for anything other than the development, construction, maintenance and/or operation of the SMART Plan rapid transit corridor projects.]]~~ Trust Fund moneys shall not be used for any form of transportation that includes charter service, sightseeing transportation, school buses, or transportation where the primary purpose of which is the movement of private passenger vehicles.

Section 2-2366 Remaining Funds and End of Fiscal Year

On the last day of the fiscal year, any funds which remain[[*]] in the Trust Fund after payment of the expenses listed in Section 2-2365 for such year shall remain in the Trust Fund for future use toward transportation infrastructure improvements for the development, construction, maintenance, and/or operation of the SMART Plan rapid transit corridor projects.

Section 2-2367 Public Purpose

This ordinance is hereby declared to be for a public purpose and for the welfare of the residents of Miami-Dade County, Florida, and shall be liberally construed to effectuate the purpose thereof.

Section 2-2368 Municipal Contribution to Trust Fund

Any municipality located in whole or in part within the District may enter into an interlocal with the County to contribute to the Trust Fund for the construction, maintenance, and/or operation of the SMART Plan rapid transit corridor projects.

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 stand repealed upon the la[*]ter of (a) 30 year(s) from its effective date, or (b) >>the date upon which<< all bonds, >>advances,<< loans or other forms of indebtedness >>, including interest thereon,<< secured by the Trust Fund are paid in full.

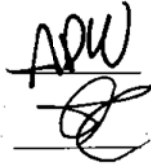
Section 6. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Annery Pulgar Alfonso
Michael Mastrucci
Brenda Kuhns Neuman

Handwritten signature in black ink, appearing to be 'ADW' with a flourish underneath.

Prime Sponsor: Chairman Esteban L. Bovo, Jr.
Co-Sponsor : Commissioner Dennis C. Moss