



Miami-Dade Board of County Commissioners
Office of the Commission Auditor

Housing, Social Services & Economic Development
(HSSD) Committee Meeting

November 13, 2019
12:00 P.M.
Commission Chambers

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**HSSD Committee Meeting:
November 13, 2019
Research Notes**

**Item No. 1G1
File No. 192277**

Researcher: MF Reviewer: PGE

ORDINANCE RELATING TO PROCESS FOR AWARD OF DOCUMENTARY SURTAX FUNDS; AMENDING SECTION 29-7 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING EXCEPTIONS FOR TRANSIT ORIENTED DEVELOPMENTS LOCATED ALONG STRATEGIC MIAMI AREA RAPID TRANSIT (SMART) PLAN CORRIDORS THAT HAVE GONE THROUGH ANOTHER COMPETITIVE PROCESS; CREATING AN OPEN AND ROLLING APPLICATION PROCESS FOR CERTAIN RENTAL AND HOMEOWNERSHIP DEVELOPMENTS; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should authorize amending the County's Documentary Surtax Ordinance (Section 29-7 of the County Code) to exempt transit oriented, County land and naturally occurring affordable housing (NOAH) developments from the competitive RFA requirement for the allocation of documentary surtax funds and to create an open and rolling application process for County land and NOAH developments.

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Dennis C. Moss, District 9

Co-Sponsor: Commissioner Eileen Higgins, District 5

Department/Requester: None

This item was adopted on first reading at the BCC meeting of October 3, 2019. There were no questions or comments and the Board voted on the ordinance as presented.

ANALYSIS

The purpose of this item is for the Board to approve amending the County's Documentary Surtax Ordinance to exempt TOD developments, County land developments and NOAH developments from the standard RFA process prerequisite for the allocation of documentary surtax funds. The amendment also sets forth a process for the award of funds for County land developments and NOAH developments, i.e., an open and rolling applications process. As indicated in the item's Social Equity Statement, the intent of these changes is to provide exceptions for TODs located along SMART Plan corridors that have gone through another competitive process and to create an open and rolling application process for certain rental and homeownership developments. The amendments benefit the County by avoiding delays in the recommendation of eligible projects for funding, thereby increasing the supply of affordable housing located near major transit terminals along SMART Plan corridors.

The Fiscal Impact Statement states that there is no fiscal impact associated with this item at this time. No information is available to ascertain the amount of surtax funds per fiscal year that would be allocated to the projects under this amendment.

Pursuant to Ordinance No. 07-18, which codified Section 29-7G and H of the County Code, no allocation of documentary surtax money shall be made except as part of a competitive Request for Applications (RFA) procedure. With this codification, the Board established a process whereby agencies seeking to utilize documentary surtax funds were required to undergo a competitive RFA process for allocation of such funds, including obtaining community input, and for County staff to conduct a systematic review of the applications. With the 2007 ordinance adoption, the County established several

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competitive processes to award funds, leases, development rights, and other benefits and rights to developers producing affordable housing.

Consequently to the adoption of Ordinance No. 07-18, the County implemented alternative competitive processes whereby developers undergo an arduous competitive process for the right to lease and develop County-owned land; however, because such developers did not go through the RFA process for surtax funds – the project, as the Code stands, cannot be awarded surtax money. The financial constraints can then lead to delays in projects and in some cases the projects may not move forward entirely. Some examples of ways the County has used funds since the inception of the Surtax Program include:

- There have been 7,128 low-to-medium income families with low interest second mortgages, allowing them to become first-time homeowners;
- The County has offered homebuyer counseling as a way to keep the mortgage default rate to less than 1.1% among surtax program participants;
- Low-cost construction financing has allowed the County to partner with no-for-profit and for-profit affordable housing developers to produce more than 15,000 affordable multi-family rental units;
- At least 50% of surtax funds have benefited low-income families;

The proposed ordinance to amend Section 29-7 of the Code would guarantee that documentary surtax funds are allocated for said projects, including TODs and leases to develop housing on County-owned property. The amendment to the ordinance also applies to developers seeking and receiving conveyance of County-owned land to develop affordable housing, because staff would have previously reviewed said projects. There is an urgent need to construct TODs located along the SMART Plan corridors as well as other affordable housing throughout the County.

The SMART Plan Corridors consist of six areas throughout the County. As per information cited in the Miami-Dade Transportation Planning Organization, the following are the planned **Rapid Transit Corridors** and their destinations:

- ❖ Beach Corridor – from Midtown Miami to Miami Beach Convention Center
- ❖ East-West Corridor – from Miami Intermodal Center to Florida International University
- ❖ Kendall Corridor – from Dadeland area Metrorail to Krome Avenue
- ❖ North Corridor – from MLK Metrorail Station to NW 217th Street
- ❖ Northeast Corridor – from Downtown Miami to City of Aventura
- ❖ South Dade Transitway – from Dadeland South Metrorail to SW 344th Street Transit Terminal (Florida City)

Another component of the SMART Plan is the **Bus Express Rapid Transit (BERT) Regional Network**, aimed at implementing mass transit projects throughout the County. BERT consists of the following:

BERT Name	Descriptions
Beach Express	North: Miami Bch. Convention Center to Golden Glades via I-95 Central: Miami Bch. Convention Center to Civic Center via Julia Tuttle Causeway

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	South: Miami Bch. Convention Center to Downtown Miami via MacArthur Causeway
Flagler Corridor	Downtown Miami to West Dade via Flagler Street
Florida's Turnpike Express	North: Dolphin Station to North Miami-Dade via the HEFT South: Dolphin Station to SW 344 th Street via the HEFT
NW Miami-Dade Express	Palmetto Metrorail Station to Miami Gardens Drive Park-n-Ride via Palmetto Express and I-75
South Miami-Dade Express	Dadeland North Metrorail Station to southern Miami-Dade County via SR-878, SR-874, and Florida's Turnpike
SW Miami-Dade Express	Dadeland North Metrorail Station to Miami Executive Airport via SR-878 and SR-874

OCA performed research regarding the use of surtax money in South Florida. Below is a snapshot of Broward and Palm Beach Counties and their use of surtax funds for respective projects, according to information listed on the jurisdictions' websites.

- **Broward County** – Voters approved a 30-year, 1% surtax for transportation in November 2018, which took effect January 1, 2019. The surtax will be used for the following:
 - Creating connectivity through a smart grid
 - Relieving traffic congestion
 - Improving transit services
 - Expanding the availability of multimodal transportation<https://www.broward.org/PennyForTransportation/Pages/Penny-Facts.aspx>
- **Palm Beach County** – Voters approved raising the sales tax from 6% to 7% in November 2016, which took effect January 1, 2017; the increase is set to expire on December 31, 2026. The surtax may only be used for infrastructure projects such as roads, bridges, schools, and government buildings.
 <https://www.myboca.us/DocumentCenter/View/18221/Infrastructure-Surtax-Projects-Brochure-PDF>

ADDITIONAL INFORMATION

A complete guide to the SMART Plan may be accessed via the Miami-Dade Transportation Planning Organization's (TPO) website: <http://www.miamidadetpo.org/smartplan.asp>

APPLICABLE LEGISLATION/POLICY

Section 29-7 of the Miami-Dade County Code (Documentary Stamps) applies to legislative findings, authority and intent and was enacted pursuant to the provisions of Chapter 83-220, Florida Statutes and the Miami-Dade County Home Rule Charter. Through Section 29-7, the Board declares that there is great and urgent need in this community for the construction and rehabilitation of all types of affordable housing. The Board further finds that the documentary surtax program has been widely successful in meeting this need and should continue to fund the construction and rehabilitation of housing for low- and moderate-income families through the provision of second mortgages, construction loans and other programs.

<https://www.miamidade.gov/global/housing/surtax.page>

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Ordinance No. 07-18, adopted February 8, 2007, amended Miami-Dade County Code Section 29-7 pertaining to documentary surtax.

<http://intra/gia/matter.asp?matter=070890&file=true&yearFolder=Y2007>

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**Item No. 3D
File No. 192528**

Researcher: MF Reviewer: PGE

RESOLUTION APPROVING THE AMENDED AND RESTATED LEASES FOR THE DEVELOPMENT OF PROPERTY AND AIR RIGHTS AT THE SOUTH MIAMI METRORAIL STATION AND THE ASSIGNMENT OF THE LEASES TO TSS PHASE I LLC AND TSS PHASE II LLC, AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AMENDED AND RESTATED LEASES FOR AND ON BEHALF OF THE COUNTY TO EXERCISE ALL PROVISIONS AND ALL RIGHTS CONTAINED THEREIN AND TO PERFORM ALL ACTS NECESSARY TO EFFECTUATE SAME

ISSUE/REQUESTED ACTION

Whether the Board should approve the assignment of restated and amended ground leases to TSS Phase I LLC and TSS Phase II LLC for joint development of property at the South Miami Metrorail Station and releasing Hometown Station Ltd. from obligations under the original ground lease agreement.

PROCEDURAL HISTORY

Prime Sponsor: N/A

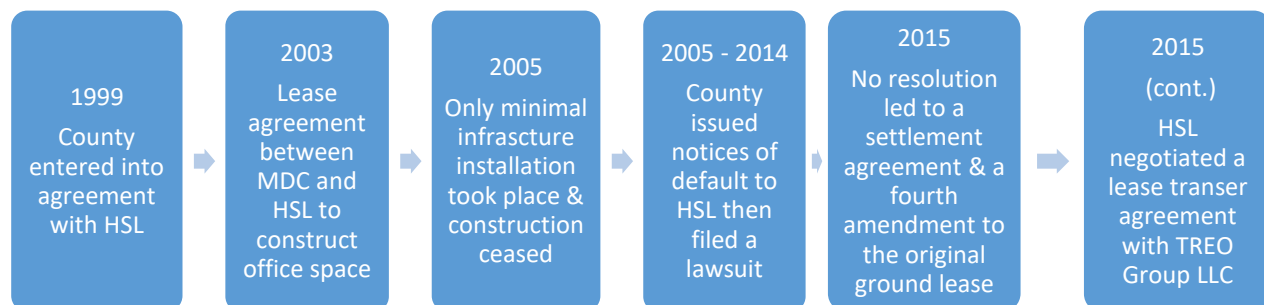
Department/Requester: Department of Transportation and Public Works (DTPW)

There is no procedural history for this item at this time.

ANALYSIS

The purpose of this item is to authorize amended and restated leases to develop property and air rights at the South Miami Metrorail Station and the assignment of said leases to TSS Phase I LLC and TSS Phase II LLC. According to DTPW, this project has been stalled since 1999 due to a variety of delays and issues between the County and Hometown Station, Ltd (HSL), the company that was originally selected for the joint development project at the South Miami Metrorail Station and the air rights of one of the two parking garages adjacent to the station.

Below is a timeline of what has transpired thus far under this lease.



The project is located in Commission District 7, represented by Commissioner Xavier Suarez; notwithstanding the project's impact is county-wide.

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There is no fiscal impact, as the developer has agreed to finance the entire project. There is a positive fiscal impact to the County from rent that will be generated during the 90-year term of the lease, of approximately \$100,000,000. Under the terms of this amended and restated leases, the developer will provide additional \$250,000 in improvements to the South Miami Metrorail Station, for such things as signage and landscaping of entrances.

Subsequent to the negotiated lease transfer from HSL to TREO Group LLC, TREO created two separate entities, TSS Phase I LLC and TSS Phase II LLC, both of which are owned by TREO. Under the proposed amended and restated leases, both TREO entities are expected to develop distinct phases of the project. Phase I of the project consists of the construction of student housing and an office building. This proposed restatement of the lease agreement also includes the following changes:

- Base rent is apportioned between the two leases; the base rent of the two leases is 100% of the base rent established in the fourth amendment, pursuant to Resolution No. R-943-15;
- The requirement for completion of 100,000 sq. ft. of development may be extended by up to three years with the payment of additional rent payments;
- Participation Rent at a rate of 0.7% of gross income will remain the same in both leases;
- TSS Phase I LLC agrees to contribute up to \$250,000 in services to design and replace the existing canopy connecting the transit parking garage at the South Miami Metrorail Station.

According to DTPW, the proposed agreements establish the following provisions:

- DTPW will retain ownership and control of the property;
- There will be no interference with transit operations; and
- The contemplated uses are compatible with transit uses and will serve to enhance the County's Metrorail system and increase ridership throughout the transit system.

OCA performed due diligence on the awarded companies, TSS Phase I LLC and TSS Phase II LLC. Below are the findings.

Awarded Vendor	Corporate Registration	Tax Collector's Office	Florida DBPR	Westlaw
TSS Phase I LLC	Florida Limited Liability Company Active Principal Address: 2950 SW 27 Ave Ste. 100 Miami, FL Mailing Address: 2950 SW 27 Ave Ste. 100 Miami, FL Filed: January 3, 2019	No account on file	No account on file	No cases found
TSS Phase II LLC	Florida Limited Liability Company	No account on file	No account on file	No cases found

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	<p>Active</p> <p>Principal Address: 2950 SW 27 Ave Ste. 100 Miami, FL</p> <p>Mailing Address: 2950 SW 27 Ave Ste. 100 Miami, FL</p> <p>Filed: January 3, 2019</p>			
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APPLICABLE LEGISLATION/POLICY

Resolution No. R-943-15, adopted October 20, 2015, approved a settlement agreement between Miami-Dade County and Hometown Station Ltd. approving amendment No. 4 to a lease agreement between Miami-Dade County and Hometown Station, Ltd; terminating the South Miami Metrorail Parking Garage operating and management agreement and the hometown station space lease agreement; declaring surplus and including in the fourth amendment to the lease agreement approximately 15,434 sq. ft. of County-owned land located at the intersection of SW 72 Street and SW 59 Place in the City of South Miami as an economic development conveyance under Section 125.045 of Florida Statutes.
<http://intra/gia/matter.asp?matter=152348&file=true&yearFolder=Y2015>

Resolution No. R-168-06, adopted February 7, 2006, approved amendment No. 3 to the South Miami Metrorail lease between Miami-Dade County and Hometown Station, Ltd.
<http://intra/gia/matter.asp?matter=060414&file=false&yearFolder=Y2006>

Resolution No. R-1313-03, adopted December 4, 2003, approved amendment No. 2 to the South Miami Metrorail Lease between Miami-Dade County and Hometown Station, LTD.
<http://intra/gia/matter.asp?matter=033376&file=true&yearFolder=Y2003>

Resolution No. R-1198-01, adopted October 23, 2001, ratified the County Manager's action executing amendment No. 1 to the South Miami Metrorail Lease between Miami-Dade County and Hometown Station Ltd.
<http://intra/gia/matter.asp?matter=012225&file=false&yearFolder=Y2001>

Resolution No. R-1375-99, adopted December 16, 1999, awarded lease to Hometown Station, Ltd. to develop portions of the property adjacent to the South Miami Metrorail Station and Parking Garage.
<http://intra/gia/matter.asp?matter=000451&file=false&yearFolder=Y2000>

Resolution No. R-1443A-81, adopted September 28, 1981, reaffirmed the Board's previous joint use policy for commercial development in conjunction with the Metrorail Rapid Transit System and approved the guidelines. (The link for this item is not available via Legistar).

Section 2.11.15 of the Miami-Dade County Code (Works of Art in Public Places), *Applicability and Jurisdiction over County facilities*. Subject to the provisions of paragraph (2)(e) below, this section is intended to, and shall, govern art in public places in the incorporated and unincorporated areas of the County. County facilities located, or intended to

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be located, within the boundaries of a municipality shall be governed solely and exclusively by the Miami-Dade Art in Public Places Ordinance with respect to matters covered in this section, including with respect to the collection, payment, and allocation of funds for the acquisition and display of works of art relating to said County facilities, and shall not be within the jurisdiction of the municipality for such purposes. *Appropriation for construction to include amount for works of art.* Miami-Dade County and each municipality in Miami-Dade County shall provide for the acquisition of works of art equivalent in value to not less than one and one-half (1½) percent of the construction cost of new governmental buildings, provided that no funds may be appropriated for this purpose from the ad valorem tax operations fund. To the extent the total appropriation is not used for the acquisition of works of art for said buildings, the remainder may be used for:

[https://library.municode.com/fl/miami -
dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-11.15WOARPUPL](https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-11.15WOARPUPL)

Administrative Order 3-11, Art in Public Places Program Implementation Fund Transfer Procedure. Pursuant to County Code, it is the County's policy to appropriate not less than 1 1/2 percent of the construction cost of new governmental buildings for the purpose of acquiring works of art. The purpose of this administrative order is to establish the necessary procedures to implement the Art In Public Places (AIPP) ordinance and for the transfer of funds from departmental capital budgets to the AIPP Trust Fund in a manner which ensures the self-sufficiency of the Program without any dependency on the ad valorem tax operating fund.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO3-11.pdf>

Section 255.05 Florida Statutes, governs bond of contractor constructing public buildings form, and states that a person entering into a formal contract with the state or any county, city, or political subdivision thereof, or other public authority or private entity, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work or before recommencing the work after a default or abandonment, to execute and record in the public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety. A public entity may not require a contractor to secure a surety bond under this section from a specific agent or bonding company.

[http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0200-
0299/0255/Sections/0255.05.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0255/Sections/0255.05.html)