

MEMORANDUM

TMPC

Agenda Item No. 1(G)3

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: January 9, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to the
Citizens' Independent
Transportation Trust ("CITT");
amending, by a two-thirds vote
of the Commission membership,
section 29-124 of the Code;
revising the manner in which
and types of contracts that the
CITT reviews and submits a
recommendation for

The accompanying ordinance was prepared and placed on the agenda at the request of Co-Prime Sponsors Commissioner Eileen Higgins and Commissioner Jose "Pepe" Diaz.



Geri Bonzon-Keenan
County Attorney

GBK/smm

MDC001



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: November 15, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 4(D)

Please note any items checked.

- | | |
|-------------------------------------|---|
| _____ | "3-Day Rule" for committees applicable if raised |
| <input checked="" type="checkbox"/> | 6 weeks required between first reading and second reading
(per Ordinance No. 02-116) |
| _____ | 4 weeks notification to municipal officials required prior to public
hearing |
| _____ | Decreases revenues or increases expenditures without balancing budget |
| _____ | Budget required |
| <input checked="" type="checkbox"/> | Statement of fiscal impact required |
| <input checked="" type="checkbox"/> | Statement of social equity required |
| _____ | Ordinance creating a new board requires detailed County Mayor's
report for public hearing |
| _____ | No committee review |
| <input checked="" type="checkbox"/> | Applicable legislation requires more than a majority vote (i.e., 2/3's
present ____, 2/3 membership <input checked="" type="checkbox"/>, 3/5's ____, unanimous ____, CDMP
7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote
requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote
requirement per 2-116.1(4)(c)(2) ____) 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. 4(D)
11-15-22

ORDINANCE NO. _____

ORDINANCE RELATING TO THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST ("CITT"); AMENDING, BY A TWO-THIRDS VOTE OF THE COMMISSION MEMBERSHIP, SECTION 29-124 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING THE MANNER IN WHICH AND TYPES OF CONTRACTS THAT THE CITT REVIEWS AND SUBMITS A RECOMMENDATION FOR; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, in 2002, the electors of Miami-Dade County approved the imposition of a one-half percent sales surtax with the purpose of improving, among other things, mass transit within the County through the People's Transportation Plan ("PTP"); and

WHEREAS, the Citizens' Independent Transportation Trust ("CITT") is the 15-member body created to oversee the PTP and the use of the one-half percent sales surtax (the "surtax funds"); and

WHEREAS, section 29-124(f)(i) of the Code of Miami-Dade County, Florida (the "Code") provides that "[n]o surtax proceeds may be used to pay the costs of a contract unless the [CITT] has submitted a recommendation to the County Commission regarding said contract award"; and

WHEREAS, on January 20, 2016, this Board adopted Ordinance No. 16-9, which amended section 29-124 of the Code to also require that, even if no surtax funds are used, "no County funds may be used to pay the costs of a contract where the portion procured by or on behalf of Miami-Dade Transit or for transit-related procurements is valued at over one million dollars (\$1,000,000.00) unless the [CITT] has submitted a recommendation to the County Commission regarding said contract award"; and

WHEREAS, the award of contracts may sometimes take several months after the County Mayor has made her recommendation because the County Code requires that the CITT provide its recommendation before this Board may consider a surtax funded contract award or a transit-related non-surtax funded contract award valued at over \$1,000,000.00; and

WHEREAS, this Board's consideration of non-surtax funded contract recommendations, including those for departments other than the Department of Transportation and Public Works, have on occasion been delayed by the need to submit the contract recommendation for the CITT's review prior to this Board's consideration; and

WHEREAS, the intended purpose of the CITT as referenced in the PTP is to oversee the County's use of surtax funds; and

WHEREAS, this Board desires to expedite its consideration of non-surtax funded contract recommendations in order to maintain efficiency in its procurement processes; and

WHEREAS, creating flexibility in the order in which the CITT and this Board reviews contract awards also promotes the timely award of contracts, which is particularly important for time-sensitive procurements or emergency-related procurements that are surtax funded; and

WHEREAS, Ordinance No. 02-116, adopted on July 9, 2002, creating article XVI, sections 29-121 through 29-124 of the Code, regarding the Charter County Transportation System Surtax, requires that any amendment to that ordinance be subject to a two-thirds vote of this Board's membership,

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

Section 1. Section 29-124 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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

* * *

Expenditure of surtax proceeds for contracts procured by or on behalf of Miami-Dade Transit or for transit-related procurements shall be subject to the following limitations:

* * *

(f)(i) No surtax proceeds may be used to pay the costs of a contract >>awarded by action of the County Commission until the Trust's recommendation process is completed in one of the four enumerated manners as described below:

(1) The Trust's recommendation process is completed if the Trust has reviewed a contract award recommendation prior to the County Commission taking action on such contract award and the Trust has forwarded a recommendation to the County Commission regarding said contract award and the County Commission accepts, modifies, or rejects the Trust's recommendation regarding the contract award by a majority vote of Commission members present;

(2) The Trust's recommendation process is completed if, prior to the Trust forwarding a recommendation to the County Commission, the Board has approved the award of a contract and the Trust subsequently concurs with such contract award;

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.

- (3) The Trust's recommendation process is completed if, prior to the Trust forwarding a recommendation to the County Commission, the Board has approved the award of a contract and the Trust subsequently recommends against such contract award, and in response to the Trust's recommendation, the County Commission re-affirms or modifies its contract award by majority vote of Commission members present; or
- (4) The Trust's recommendation process is completed if the County Commission has approved an award recommendation and 45 days have elapsed since the County Mayor or County Mayor's designee filed an award recommendation with the Clerk of the Board and also submitted to the Trust the contract award recommendation for its review, and the Trust has failed to forward a concurrence with, or recommendation against, the contract award to the County Commission.
- (ii) Notwithstanding any other provision to the contrary, the County Commission may reject all bids or vote against a contract award by majority vote and if such vote occurs before the Trust has forwarded a recommendation to the County Commission, no further action by the Trust is required.
- (iii) The bid documents for all County contracts funded in whole or in part with surtax proceeds shall provide that no award shall be effective, and no contractual relationship shall arise with the County unless and until the Trust's recommendation process pursuant to subsection (f)(i) is completed. The Board resolution approving the contract award shall provide that the award of the contract shall not be effective until the Trust's recommendation process is completed.<<
~~[[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 County Mayor's~~

~~designee filing an 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.~~

~~(ii) Where no surtax proceeds are used to fund a contract, no County funds may be used to pay the costs of a contract where the portion procured by or on behalf of Miami Dade Transit or for transit-related procurements is valued at over one million dollars (\$1,000,000.00) 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 majority vote. If the Trust has failed to forward a recommendation to the County Commission within 45 days of the County Mayor or County Mayor's designee filing an 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.~~

~~(iii) Where no surtax proceeds are used to fund a contract eligible for award under the County Mayor's delegated authority and where the portion procured by or on behalf of Miami Dade Transit or for transit-related procurements is valued at one million dollars (\$1,000,000.00) or less, the Trust shall be provided with a Semi Annual Report detailing all such contract awards. If the Trust takes exception with a contract award the County Mayor or County Mayor's designee will provide the Trust with any additional information necessary to resolve any outstanding issue and, if necessary and appropriate, work in collaboration with the Trust to take any corrective action that may be available.]]~~

- (iv) The Trust shall, in consultation with the County Mayor or County Mayor's designee, schedule Trust meetings monthly ~~[[se-as-to]]~~ >>to<< ensure that a Trust recommendation is provided to the Commission with the Commission's agenda package >>as may be necessary<<.

* * *

Section 2. 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 3. 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 4. This ordinance may only be amended or repealed by a two-thirds vote of the Board of County Commissioners. Any amendment or repeal of this ordinance shall further require a minimum of six weeks between first and second reading.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Annery Pulgar Alfonso
Bruce Libhaber

Co-Prime Sponsors: Commissioner Eileen Higgins
Commissioner Jose "Pepe" Diaz