

Item # 82₍₂₎

Alternate Proposed Resolution for
the Board's Consideration

ADDITIONAL MATERIAL

Regular Meeting

JUNE 16, 2020

SUBMITTED AT THE REQUEST OF

**OFFICE OF THE COUNTY
ATTORNEY**

PROPOSED

RESOLUTION NO. 2020-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PROVIDING FOR A REFERENDUM ELECTION TO BE HELD ON NOVEMBER 3, 2020, THE DATE OF THE GENERAL ELECTION, TO DETERMINE WHETHER TO AMEND THE BROWARD COUNTY CHARTER TO PROVIDE THAT, WITH REGARD TO DEVELOPMENT OF COUNTY PROPERTY FOR SPECIFIED REGIONAL FACILITIES INTENDED TO SERVE A PUBLIC PURPOSE, COUNTY ORDINANCES SHALL PREVAIL OVER MUNICIPAL ORDINANCES TO ENSURE THAT NECESSARY REGIONAL FACILITIES, INCLUDING THOSE NECESSARY TO IMPLEMENT THE SURTAX-FUNDED PLAN TO DRAMATICALLY IMPROVE TRANSPORTATION OPTIONS, CAN BE DEVELOPED IN A MANNER TO BENEFIT RESIDENTS COUNTYWIDE; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, in 2018, the electorate of Broward County ("County") approved a thirty-year Regional Transportation System Sales Surtax (the "Transportation Surtax") to fund planning, development, operation, and maintenance of roads and bridges, bus systems, fixed guideway rapid transit systems, and on-demand transportation services, designed to reduce traffic congestion and to increase and improve transportation options available countywide;

WHEREAS, the proceeds of the Transportation Surtax will be used to fund critical transportation projects and facilities, such as light rail and express transit equipment and facilities, park-and-ride lots, and other mass transit options for residents and visitors;

1 WHEREAS, in order to utilize the Transportation Surtax funding to provide
2 maximum benefit in improving countywide transportation, a regional approach is
3 necessary to ensure optimal available sites are utilized for critical transportation projects
4 necessary to ensure countywide access;

5 WHEREAS, many Transportation Surtax-funded projects will serve and benefit the
6 residents of more than one municipality and therefore may be subject to overlapping
7 jurisdictions and redundant or conflicting requirements for municipal zoning and
8 permitting approvals;

9 WHEREAS, municipalities currently have the ability to effectively block the siting
10 of critical regional facilities, such as park-and-ride lots, to be used in connection with
11 emerging rail and express transit options;

12 WHEREAS, establishing a uniform regional approach to zoning and permitting
13 requirements for projects funded in whole or in part with Transportation Surtax proceeds
14 will expedite the development of such projects so improvements to the transportation
15 system can be completed as quickly as possible, thereby benefiting residents without
16 unnecessary delay and the inconvenience that results from unnecessarily prolonged
17 construction projects;

18 WHEREAS, in addition, the County has invested more than \$50 million to establish
19 a state-of-the-art regional public safety communications system to improve capacity and
20 reliability for emergency communications by first responders and other public safety
21 officials across Broward County, which will in turn improve the ability of first responders
22 to quickly, safely, and reliably respond to emergencies to protect the health, safety, and
23 lives of County residents who rely upon such prompt and reliable emergency services;

1 WHEREAS, the new regional public safety communications system, which is
2 projected to serve the County's public safety personnel for at least the next twenty (20)
3 years, requires the installation and maintenance of communications infrastructure and
4 related equipment at various locations that are owned or leased by the County but which
5 locations are within municipal boundaries;

6 WHEREAS, it would benefit the public health, safety, and welfare of residents and
7 visitors countywide to ensure that the County can access, maintain, and operate these
8 County-owned or County-leased sites that are part of the regional system without
9 subjecting such uses to inconsistent procedures and requirements imposed by the
10 various municipalities in which these sites may be located;

11 WHEREAS, the ability to utilize County-owned or County-leased sites for public
12 uses that primarily or exclusively promote tourism in Broward County, such as convention
13 facilities, would support ongoing efforts to market Broward County as an attractive tourism
14 destination and support local businesses that rely on tourism for a significant portion of
15 their revenues;

16 WHEREAS, as the region continues to develop and population continues to
17 increase, ~~resulting in increased demand for social services and public infrastructure,~~ other
18 County-owned or County-leased property may need to be utilized for ~~other countywide~~
19 ~~regional purposes such as~~ governmental offices, which would facilitate more convenient
20 access to such offices by County residents;

21 WHEREAS, Section 2.06 of the Broward County Charter ("Charter") authorizes the
22 Broward County Board of County Commissioners ("Board") to propose amendments and
23 revisions to the Charter, subject to referendum of the general electorate; and
24

1 WHEREAS, the Board desires to place an amendment to the Charter before the
2 voters at the November 3, 2020, General Election, NOW, THEREFORE,

3
4 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
5 BROWARD COUNTY, FLORIDA:

6
7 Section 1. Subject to an affirmative vote of the general electorate, Section 11.01
8 of the Charter, entitled Conflict of County ordinances with Municipal ordinances, is hereby
9 amended to read as follows:

10 **Sec. 11.01. Conflict of County ordinances with Municipal ordinances**

11 Any County ordinance in conflict with a Municipal ordinance shall not be effective
12 within the Municipality to the extent that a conflict exists regardless of whether such
13 Municipal ordinance was adopted or enacted before or after the County ordinance. A
14 County ordinance shall prevail over Municipal ordinances whenever the County acts with
15 respect to the following:

16 A. Sets minimum standards protecting the environment through the prohibition
17 or regulation of air or water pollution, or the destruction of resources in the County
18 belonging to the general public.

19 B. Land use planning.

20 C. Regulates the conduct of elected officials, appointed officials, and public
21 employees through an enacted Code of Ethics.

22 D. The development of any project(s) on County-owned or County-leased
23 property, regardless of the project's commencement date, including through County
24 regulation of zoning, permitting, construction, operation, and administration, provided

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 such project serves ~~a~~ one of the following public purposes with a regional benefit: ~~such~~
2 ~~as use as public transportation facilities pursuant to the surtax-funded transportation~~
3 ~~improvement plan~~ funded in whole or in part with transportation surtax proceeds; the
4 siting and operation of public safety infrastructure; public facilities used primarily or
5 exclusively to promote tourism, including convention center facilities; or government
6 offices. This provision shall not apply to any County project for which the construction
7 commenced after June 16, 2020, and that is located in an area zoned residential as of
8 June 16, 2020, unless the municipality agrees to modify such zoning or takes such other
9 action that would permit the intended County use.

10 In the event a County ordinance and a Municipal ordinance shall cover the same
11 subject matter without conflict, both the Municipal ordinance and the County ordinance
12 shall be effective.

13 Section 2. A referendum election is called for the General Election on
14 November 3, 2020, and at such other times as permitted for voting under Chapter 101,
15 Florida Statutes, to determine whether the Charter should be amended to allow County
16 ordinances to prevail over Municipal ordinances related to the utilization of County-owned
17 or County-leased property for a one of these specified regional purposes.

18 Section 3. In accordance with Section 100.342, Florida Statutes, at least thirty
19 (30) days' notice of the referendum election shall be published by the Broward County
20 Administrator in a newspaper of general circulation in Broward County. The publication
21 shall be made at least twice, including once in the fifth week and once in the third week
22 prior to the week in which the referendum is to be held. The notice is hereby attached as
23 Exhibit A and made a part hereof.

1 Section 4. Said referendum election shall be held between the hours of
2 7:00 a.m. and 7:00 p.m. on Tuesday, November 3, 2020, and at such other days and
3 times as provided under applicable law, including early voting as provided by
4 Section 101.657, Florida Statutes, at polling places established in Broward County. All
5 registered and qualified electors in Broward County shall be eligible to vote in the
6 referendum election. Vote-by-mail ballots and early voting access for the referendum
7 shall be made available as provided by law.

8 Section 5. The election boards consisting of the clerks and inspectors
9 appointed to serve for the General Election on November 3, 2020, are hereby appointed
10 to serve in the referendum election in the manner provided by law.

11 Section 6. The Broward County Canvassing Board shall canvass the returns in
12 said election and shall certify the results of the referendum election as provided by law.

13 Section 7. The County Administrator shall furnish a certified copy of this
14 adopted Resolution to the Supervisor of Elections for Broward County on or before
15 July 1, 2020.

16 Section 8. The title and summary of the referendum question to appear on the
17 General Election on November 3, 2020, as embodied in this enabling resolution, shall be
18 as follows:

19 **REGULATING DEVELOPMENT AND USE OF COUNTY PROPERTY**
20 **THAT SERVES A ~~COUNTYWIDE~~ REGIONAL PUBLIC PURPOSE**

21 “Ensures County-owned or County-leased property can be used for specified
22 public purposes with a ~~countywide~~ regional benefit, such as for siting or operating public
23 safety infrastructure, surtax-funded public transportation facilities ~~developed pursuant to~~
24 ~~the surtax-funded transportation improvement plan,~~ publicly-owned convention center

1 facilities, or government offices, by amending the Broward County Charter to provide that
2 County ordinances will prevail over conflicting Municipal ordinances that would restrict
3 the County's ability to develop and use the property for such ~~countywide~~ regional public
4 benefit."

5 YES _____

6 NO _____

7 FINANCIAL IMPACT STATEMENT:

8 It is estimated that this amendment will have no financial impact to Broward
9 County.

10
11 Section 9. Severability.

12 If any portion of this Resolution is determined by any court to be invalid, the invalid
13 portion will be stricken, and such striking will not affect the validity of the remainder of this
14 Resolution. If any court determines that this Resolution, in whole or in part, cannot be
15 legally applied to any individual, group, entity, property, or circumstance, such
16 determination will not affect the applicability of this Resolution to any other individual,
17 group, entity, property, or circumstance. If the County determines any part of the ballot
18 statement, including the fiscal impact statement, is contrary to state law, the County
19 Attorney is authorized to request that the Supervisor of Elections remove the applicable
20 language from the proposed ballot proposal and the Supervisor of Elections is authorized
21 to remove such language.

Section 10. Effective Date.

This Resolution shall be in force and take effect immediately upon its adoption by an affirmative vote of no fewer than six (6) members of the Broward County Board of County Commissioners.

ADOPTED this day of , 2020.

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

PROPOSED

By /s/ Joseph K. Jarone 06/09/2020
Joseph K. Jarone (date)
Assistant County Attorney

By /s/ Benjamin R. Salzillo 06/09/2020
Benjamin R. Salzillo (date)
Assistant County Attorney

By /s/ Rene D. Harrod 06/09/2020
René D. Harrod (date)
Deputy County Attorney

JKJ/BRS/RDH/jl
Regional Facilities Charter Amendment
06/09/2020
511000_2

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

Exhibit A

NOTICE OF REFERENDUM ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, AND AT SUCH OTHER TIMES AS PROVIDED FOR EARLY VOTING BY SECTION 101.657, FLORIDA STATUTES, TO DETERMINE WHETHER TO AMEND THE BROWARD COUNTY CHARTER TO PROVIDE THAT, WITH REGARD TO DEVELOPMENT OF COUNTY PROPERTY FOR SPECIFIED REGIONAL FACILITIES INTENDED TO SERVE A PUBLIC PURPOSE, COUNTY ORDINANCES SHALL PREVAIL OVER MUNICIPAL ORDINANCES TO ENSURE THAT NECESSARY REGIONAL FACILITIES, INCLUDING THOSE NECESSARY TO IMPLEMENT THE SURTAX-FUNDED PLAN TO DRAMATICALLY IMPROVE TRANSPORTATION OPTIONS, CAN BE DEVELOPED IN A MANNER TO BENEFIT RESIDENTS COUNTYWIDE; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

A countywide referendum election will be held on Tuesday, November 3, 2020, and at such other times as provided for by Chapter 101, Florida Statutes, for the purpose of determining whether to amend the Broward County Charter to provide that, with regard to development of County property for regional facilities intended to serve a one of the specified regional purposes, County Ordinances prevail over Municipal ordinances;

As set forth in enabling Resolution No. 2020-____, adopted on ____, by the Board of County Commissioners of Broward County, Florida, the title and summary to appear on the referendum ballot shall be as follows:

REGULATING DEVELOPMENT AND USE OF COUNTY PROPERTY THAT SERVES A COUNTYWIDE REGIONAL PUBLIC PURPOSE

Ensures County-owned or County-leased property can be used for specified public purposes with a countywide regional benefit, such as for siting or operating public safety infrastructure, surtax-funded public transportation facilities ~~developed pursuant to the~~ publicly-owned convention center facilities, ~~surtax-funded transportation improvement plan,~~ or government offices, by amending the Broward County Charter to provide that County ordinances will prevail over conflicting Municipal ordinances that would restrict

the County's ability to develop and use the property for such ~~countywide~~ regional public benefit?.

YES _____

NO _____

FINANCIAL IMPACT STATEMENT:

It is estimated that this amendment will have no financial impact to Broward County.

A complete copy of the proposed amendment is available at [insert URL].

The referendum shall be held on November 3, 2020, between the hours of 7:00 a.m. and 7:00 p.m., and at such other days and times as provided under applicable law, including for early voting as provided by Section 101.657, Florida Statutes, at the polling places established in Broward County. All registered and qualified electors of Broward County shall be eligible to vote in said referendum election. Vote-by-mail ballots for the referendum election shall be prepared and made available as provided by law.

The Broward County Canvassing Board shall canvass the returns and certify the results of the referendum election to the Board of County Commissioners of Broward County, Florida, the Broward County Administrator, and the Florida Department of State, to be recorded and filed in appropriate public records.

Instructions:

A. Publish two (2) times:

Once on: September 29, 2020

Once on: October 13, 2020

B. Furnish two (2) proofs of publication and invoice to:

Mary Ann Darby, Deputy Clerk
Records, Taxes and Treasury Division
Broward County Governmental Center
115 S. Andrews Avenue, Room 336-U
Fort Lauderdale, Florida 33301

C. Furnish one (1) proof of publication and invoice to:

Board of County Commissioners
Accounting Division, Room 201
Governmental Center
115 S. Andrews Avenue
Fort Lauderdale, Florida, 33301