

**AN ORDINANCE**

- (1) PURSUANT TO THE CAPITAL PROJECT SALES TAX ACT (THE ACT), TO IMPOSE A ONE PERCENT SALES AND USE TAX (THE TAX) WITHIN HORRY COUNTY, SUBJECT TO A REFERENDUM; SPECIFYING THE SPECIFIC PURPOSES IN PRIORITY ORDER FOR WHICH THE PROCEEDS OF THE TAX WILL BE USED, THE MAXIMUM TIME THAT THE TAX WILL BE IMPOSED, AND THE MAXIMUM COST OF THE PROJECTS TO BE FUNDED FROM PROCEEDS OF THE TAX; AND**
  
- (2) TO PROVIDE FOR A COUNTY-WIDE REFERENDUM WITH RESPECT TO THE TAX TO BE CONDUCTED BY THE HORRY COUNTY ELECTION COMMISSION, PRESCRIBING THE BALLOT QUESTION FOR THE REFERENDUM, INCLUDING ALL INFORMATION REQUIRED BY THE ACT TO BE CONTAINED THEREIN; AND**
  
- (3) TO PROVIDE FOR THE ADMINISTRATION OF THE TAX; AND**
  
- (4) TO PROVIDE FOR BONDS TO BE ISSUED IN CONNECTION WITH THE TAX, INCLUDING ALL INFORMATION REQUIRED BY THE ACT TO BE CONTAINED IN THAT REGARD, AND PROVIDING THAT THE PROCEEDS OF THE TAX MAY BE USED TO DEFRAY DEBT SERVICE ON THE BONDS ISSUED IN CONNECTION WITH THE TAX; AND**
  
- (5) TO PROVIDE FOR OTHER MATTERS RELATING THERETO.**

Horry County Council (“Council”), as a preliminary matter to passage of this ordinance, observes and finds as follows:

- 1. In 1997, the South Carolina General Assembly enacted the Capital Project Sales Tax Act, S.C. Code Ann. Sections 4-10-300 through 380, which has been amended from-time-to-time in the years since its original passage (“CPST Act”), pursuant to which a county governing body may impose a one percent (1%) sales and use tax by ordinance, subject to a referendum, within the county area for a specific purpose or purposes and for a limited amount of time, and the revenues collected pursuant to the CPST Act may be used to defray debt service on bonds issued to pay for projects authorized under the CPST Act.
  
- 2. Horry County currently is contemplating the undertaking of certain projects that promote and protect the health and welfare of the citizens and otherwise serve public purposes, but for which funding is not available.
  
- 3. Council has to date acted and intends to continue to act in accordance with the requirements of the CPST Act to obtain funding for those qualified projects.
  
- 4. Council, as the governing body of Horry County, South Carolina, is authorized to create a commission subject to the provisions of S.C. Code Ann. Section 4-10-320 of the CPST

Act ("Commission"), which Commission must consider proposals for funding capital projects within the County area and is to formulate the proposed referendum question to appear on the ballot.

5. In accordance with the CPST Act, during a regularly scheduled, public meeting of Council held on July 7, 2015, and by Resolution R-51-15, Council duly created the Commission, and officially authorized those actions to be undertaken by such Commission pursuant to the CPST Act.
6. In accordance with its duties and responsibilities, the Commission has considered a multitude of projects for funding through the imposition of a Capital Project Sales Tax and, by vote of the Commission in public meetings duly advertised, the Commission issued a report ("Commission Report"), adopted the projects now described in this ordinance, formulated the proposed referendum question to appear on the ballot, and otherwise complied with the requirements of the CPST Act.
7. Council finds that it is in the best interests of the citizens and residents of Horry County that they have an opportunity to decide by way of referendum whether the projects identified in the Commission Report should be funded with the proceeds from imposition of a Capital Projects Sales Tax.

**NOW, THEREFORE**, by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina, and the powers granted to the County by the General Assembly of the State of South Carolina, **IT IS ORDAINED AND ENACTED** as follows:

**SECTION I. IMPOSITION OF CAPITAL PROJECT SALES TAX IN HORRY COUNTY, SOUTH CAROLINA**

Council finds that a one percent (1%) sales and use tax should be levied and imposed within the County in accordance with the CPST Act and, therefore, enacts this ordinance ("Enacting Ordinance") imposing the Tax, subject to a majority of votes in a referendum on the imposition of the Tax being cast in favor of imposing the Tax, which vote shall be held in Horry County, South Carolina, at the same time as this year's general election - November 8, 2016 - and pursuant to the following terms and conditions as required by the CPST Act:

1. **Referendum**: The imposition of the Tax is subject in all respects to a majority of votes in a referendum on the imposition of the Tax being cast in favor of imposing the Tax, the referendum containing the Ballot Question in substantially the same form as set forth in this Enacting Ordinance. The Horry County Election Commission shall conduct

this referendum in the area of Horry County on Tuesday, November 8, 2016 between the hours of 7 a.m. and 7 p.m., under the election laws of the State of South Carolina, and shall certify the result no later than November 30, 2016 to Council and the South Carolina Department of Revenue (“DOR”). Two weeks before the referendum, the Horry County Election Commission shall publish in a newspaper of general circulation the question that is to appear on the ballot, with the list of projects, the cost of the projects, and if the proposed question includes the use of sales taxes to defray debt service on bonds issued to pay the costs of any project, the notice must include a statement indicating that principal amount of the bonds proposed to be issued for the purpose and, if the issuance of bonds is to be approved as part of the referendum, stating that the referendum includes the authorization of the issuance of bonds in that amount. In the referendum, all qualified electors desiring to vote in favor of imposing the Tax for the stated purposes shall vote “yes” and all qualified electors opposed to levying the Tax shall vote “no”. If a majority of the votes cast are in favor of imposing the Tax, then the Tax is imposed as provided in the CPST Act and this Enacting Ordinance. Expenses of the referendum must be paid by the governmental entities that would receive the proceeds of the Tax in the same proportion that those entities would receive the net proceeds of the Tax. Upon receipt of the returns of the referendum, Council shall, by Resolution, declare the results of the referendum. The results of the referendum, as declared by Resolution of Council, are not open to question except by a suit or proceeding instituted within thirty (30) days from the date such Resolution is adopted.

2. **Adoption of Commission Report:** The final Commission Report as presented to Council by the Commission Chairman on May 17, 2016 is hereby adopted and approved, reference being made thereto and incorporated herein as fully as if repeated verbatim.

3. **Projects and Purposes:** The projects for which proceeds of the Tax are to be used are listed in the Ballot Question (“Projects”), each falling squarely within those purposes allowed to be funded under CPST Act, Section 4-10-330(A)(1)(a) through (i), and all Projects listed are located within or without, or both within and without, the boundaries of the local county governmental entities. Council expressly finds that the Projects in this Enacting Ordinance and contained in the Ballot Question serve one of more of the following CPST Act authorized purposes:
- A. highways, roads, streets, bridges, and public parking garages and related facilities;
  - B. courthouses, administration buildings, civic centers, hospitals, emergency medical facilities, police stations, fire stations, jails, correctional facilities, detention facilities, libraries, coliseums, educational facilities under direction of an area commission for technical education, or any combination of these projects;
  - C. cultural, recreational, or historical facilities, or any combination of these facilities;
  - D. water, sewer, or water and sewer projects;
  - E. flood control projects and storm water management facilities;
  - F. beach access and beach renourishment;
  - G. dredging, dewatering, and constructing spoil sites, disposing of spoil materials, and other matters directly related to the act of dredging;
  - H. jointly operated projects of the county, a municipality, special purpose district, and school district, or any combination of those entities, for the projects delineated in subitems A through G above;
  - I. any combination of the projects described in subitems A through H above.
4. **Ballot Question; Conditions and Restrictions; Instructions to Voters:** The Ballot Question shall be substantially in the same form as formulated by the Commission and set forth in this Enacting Ordinance, which Ballot Question reads as follows:

Must a special one percent sales and use tax be imposed in Horry County (“the County”) for not more than eight (8) years from the date of imposition to raise the amounts specified for the following purposes, and in order to defray a portion of the costs of the projects described below (including rights-of-way acquisition and architectural, engineering, legal and related fees), pending the receipt of such sales and use tax, must the County also be authorized to issue and sell, either as a single issue or as several separate issues, general obligation bonds (the “Bonds”) in an aggregate principal amount not exceeding \$532,000,000, to be paid from the sales and use tax received and pledged to the payment of the principal of and interest on the Bonds, and an ad valorem tax if the sales tax is inadequate for the payment of the bonds?

- |                         |  |
|-------------------------|--|
| <b>1. \$50,000,000</b>  | <b>U.S. Hwy. 501 Corridor improvements – SC Hwy. 31 to SC 544</b>                  |
| <b>2. \$15,000,000</b>  | <b>Pave 25 miles County dirt roads*</b>  |
| <b>3. \$54,700,000</b>  | <b>Carolina Forest Boulevard Widening</b>  |
| <b>4. \$ 7,500,000</b>  | <b>Palmetto Pointe Blvd. Ext. to SC Hwy. 544</b>                                   |
| <b>5. \$21,700,000</b>  | <b>SC Hwy. 9 East Widening (Loris)</b>   |
| <b>6. \$ 5,000,000</b>  | <b>Resurface 33.13 miles of City roads</b>   |
| <b>7. \$65,100,000</b>  | <b>US Hwy. 701 N Widening (North Conway)</b>                                       |
| <b>8. \$19,300,000</b>  | <b>Fred Nash Blvd. connection to Harrelson Blvd. – Myrtle Beach</b>                |
| <b>9. \$19,800,000</b>  | <b>US Hwy. 17 Business Intersection Improvements - Garden City</b>                 |
| <b>10. \$89,100,000</b> | <b>Forestbrook Road Widening</b>   |
| <b>11. \$15,000,000</b> | <b>Pave 25 miles County dirt roads*</b>  |
| <b>12. \$ 5,000,000</b> | <b>Resurface 33 miles County roads</b>   |
| <b>13. \$13,900,000</b> | <b>US Hwy. 501 Realignment from Broadway Street to 7<sup>th</sup> Avenue North</b> |
| <b>14. \$ 7,500,000</b> | <b>US Hwy. 701 Widening – North to Loris</b>                                       |
| <b>15. \$18,400,000</b> | <b>Conway Perimeter Road Phase II</b>  |
| <b>16. \$15,000,000</b> | <b>Pave 25 miles County dirt roads*</b>  |
| <b>17. \$ 5,000,000</b> | <b>Resurface 33.87 miles County roads</b>  |

- 18. **\$25,000,000**      **Southern Evacuation Lifeline (SELL) – Environmental Studies and Right-of-Way**
- 19. **\$125,000,000**      **SC Hwy. 31 (Carolina Bays Parkway) Extension To SC/NC State line**
- 20. **\$15,000,000**      **Pave 25 miles County dirt roads\***

**\*See attachment**

**TOTAL COST OF ALL CAPITAL PROJECTS: \$592,000,000.00**

The maximum amount of net proceeds of the sales and use tax which may be applied to the payment of the principal of and interest on the County’s bonds (the “Bonds”) must not exceed \$532,000,000 (based upon expected sales and use tax collections of \$592,000,000). The not to exceed \$532,000,000 principal amount of Bonds to be issued shall be repaid from proceeds of the sales and use tax, and an ad valorem tax if the sales tax is inadequate for the payment of the bonds.

**CONDITIONS AND RESTRICTIONS ON THE USE OF SALES AND USE TAX REVENUE COLLECTED UNDER THE CAPITAL PROJECTS SALES TAX ACT:**

The capital projects sales and use tax and any related bond proceeds shall be used and expended for procurement, design, engineering, project management, construction and/or improvement of the highways, roads, streets, drainage systems, bridges, equipment, and government infrastructure listed above, including payment of such sums as may be required in connection with the issuance of bonds. Net proceeds of the capital project sales and use tax or the proceeds of any related bonds, if approved, must be expended for the purposes stated, in the priority listed above. The expenditures of revenues from the capital projects sales and use tax or the proceeds of any related bonds, if approved, shall be subject to acquisition of property, rights-of-way, design and engineering considerations, the receipt of all necessary permits and regulatory approvals funding of projects from other sources (including unanticipated grants that fund a project), bids in excess of project estimates, qualifications of bidders, cost overruns, financing costs, exhaustion of insufficiency of net sales and use tax revenues or bond proceeds to complete the projects in the order and priority stated above, and other unforeseen circumstances and conditions. In the event any of the forgoing affect any project, the County Council shall, by ordinance, make findings regarding the same, before funding a lesser priority project. Nothing herein shall prevent the simultaneous funding of multiple projects consistent with each project’s designated priority.

**INSTRUCTIONS TO VOTERS:** All qualified electors of the County desiring to vote in favor of imposing the tax for the stated purposes and authorizing the issuance and sale of bonds in connection therewith as outlined above and subject to the limitations and conditions set forth above shall vote “YES”, and all qualified electors opposed to levying the tax and issuing such limited obligation bonds shall vote “NO”.

YES                    [        ]

NO [ ]

5. **Maximum Period of Imposition and Imposition Date:** The maximum time for which the Tax shall be imposed is eight (8) years from the date of imposition (May 1, 2017). If the Tax is approved by a majority of the qualified electors voting in a referendum to be held in Horry County on November 8, 2016, the Tax shall be imposed.
6. **Maximum Cost of Projects:** The maximum cost of the Projects to be funded from the Tax proceeds shall not exceed, in the aggregate, the sum of Five Hundred Ninety Two Million (\$592,000,000) Dollars.
7. **Bonds:** The County proposes to issue bonds (the “Bonds”) to provide for the payment of some or all of the costs of the Projects. The maximum amount of Bonds to be issued shall not exceed Five Hundred Thirty Two Million (\$532,000,000) Dollars. The Tax shall be pledged to the payment of the Bonds. The Bonds shall be paid from the Tax (and the imposition of an ad valorem tax to the extent, if any, that the tax is inadequate for the payment of the bonds). The Bonds shall be general obligations of the County and the County’s full faith, credit and taxing power shall be pledged for payment of the Bonds. The County reserves the right to pay some or all of the costs of the Projects from proceeds of the Bonds. Proceeds of the Bonds shall also be used for costs associated with the issuance of the Bonds. The maximum amount of net proceeds expected to be available to be used, if necessary, to pay debt service on the Bonds is \$592,000,000. In the event the referendum is successful, prior to the issuance of the Bonds authorized herein, the County shall enact an ordinance setting forth the details of the Bonds.
8. **Priority:** The Projects shall be assigned a number for purposes of being listed in the Ballot Question, and, in accordance with the Commission’s determination regarding the priority of Projects, which determination Council adopts in this Ordinance and sets forth

in the Ballot Question, the number assigned to a Project in the Ballot Question shall indicate the priority in which the proceeds are to be expended on the projects and the priority in which the Projects are to be completed, subject to the conditions and terms set forth in the Ballot Question.

9. **Termination of Tax:** The Tax shall terminate on the thirtieth of April in the eighth year following imposition of the Tax.
10. **Excess Tax Funds:** Amounts collected in excess of the required net proceeds shall be applied in accordance with State law, as may be amended, including Section 4-10-340(C). Currently, that Section provides as is set forth in the balance of this subsection, to-wit: (1) Amounts collected in excess of the required net proceeds must first be applied, if necessary, to complete a project for which the Tax was imposed. (2) If funds still remain after first using the funds as described in item (1) and the tax is reimposed, the remaining funds must be used to fund the projects approved by the voters in the referendum to reimpose the tax, in priority order as the projects appeared on the enacting ordinance. (3) If funds still remain after first using the funds as described in item (1) and the tax is not reimposed, the remaining funds must be used for the purposes set forth in Section 4-10-330(A)(1). These remaining funds only may be expended for the purposes set forth in Section 4-10-330(A)(1) following an ordinance specifying the authorized purpose or purposes for which the funds will be used.
11. **Administration and Collection of Tax:** The Tax levied shall be administered and collected in accordance with State law, as may be amended, including Section 4-10-350. Currently, that Section provides as is set forth in the balance of this subsection, to wit: (A) The tax levied pursuant to this article must be administered and collected by the Department of Revenue in the same manner that other sales and use taxes are collected. The department may prescribe amounts that may be added to the sales price because of the tax. (B) The tax authorized by this article is in addition to all other local



sales and use taxes and applies to the gross proceeds of sales in the applicable area that is subject to the tax imposed by Chapter 36, Title 12 and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 are exempt from the tax imposed by this article. Unprepared food items eligible for purchase with United States Department of Agriculture food coupons are exempt from the tax imposed pursuant to this article. The tax imposed by this article also applies to tangible personal property subject to the use tax in Article 13, Chapter 36, Title 12. (C) A taxpayer required to remit taxes under Article 13, Chapter 36 of Title 12 must identify the county in which the personal property purchased at retail is stored, used, or consumed in this State. (D) A utility is required to report sales in the county in which the consumption of the tangible personal property occurs. (E) A taxpayer subject to the tax imposed by Section 12-36-920, who owns or manages rental units in more than one county, must report separately in his sales tax return the total gross proceeds from business done in each county. (F) The gross proceeds of sales of tangible personal property delivered after the imposition date of the tax levied under this article in a county, either under the terms of a construction contract executed before the imposition date, or a written bid submitted before the imposition date, culminating in a construction contract entered into before or after the imposition date, are exempt from the sales and use tax provided in this article if a verified copy of the contract is filed with the Department of Revenue within six months after the imposition date of the sales and use tax provided for in this article. (G) Notwithstanding the imposition date of the sales and use tax authorized pursuant to this chapter, with respect to services that are billed regularly on a monthly basis, the sales and use tax authorized pursuant to this article is imposed beginning on the first day of the billing period beginning on or after the imposition date.

12. **Revenue Remitted to State Treasurer and Held in a Separate Fund:** The Tax revenue shall be remitted and held in accordance with the State law, as may be amended, including Section 4-10-360. Currently, that Section provides as is set forth in the balance of this subsection. To wit: The revenues of the tax collected under this article must be remitted to the Department of Revenue and placed on deposit with the State Treasurer and credited to a fund separate and distinct from the general fund of the State. After deducting the amount of any refunds made and costs to the Department of Revenue of administering the tax, not to exceed one percent of the revenues, the State Treasurer shall distribute the revenues quarterly to the county treasurer in the county area in which the tax is imposed and the revenues must be used only for the purposes stated in the imposition ordinance. The State Treasurer may correct misallocations by adjusting subsequent distributions, but these adjustments must be made in the same fiscal year as the misallocations. However, allocations made as a result of city or county code errors must be corrected prospectively. Within thirty days of the receipt of any quarterly payment, the county treasurer or the county administrator shall certify to the Department of Revenue amounts of net proceeds applied to the costs of each project and the amount of project costs remaining to be paid and, if bonds have been issued that were approved in the referendum, a schedule of payments remaining due on the bonds that are payable from the net proceeds of the sales tax authorized in the referendum.

13. **Calculating Distributions; Confidentiality:** The calculations of distributions and confidentiality shall be handled in accordance with the State law, as may be amended, including Section 4-10-370. Currently, that Section provides as is set forth in the balance of this subsection, to-wit: The Department of Revenue shall furnish data to the State Treasurer and to the county treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be

supplied to counties and municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12-54-240. A person violating this section is subject to the penalties provided in Section 12-54-240.

14. **Unidentified Funds: Transfer and Supplemental Distributions:** Unidentified funds, transfer and supplemental distributions shall be handled in accordance with State law, as may be amended, including Section 4-10-380. Currently that Section provides as is set forth in the balance of this subsection, to wit: Annually, and only in the month of June, funds collected by the department from the local option capital project sales tax, which are not identified as to the governmental unit due the tax, must be transferred, after reasonable effort by the department to determine the appropriate governmental unit, to the State Treasurer's Office. The State Treasurer shall distribute these funds to the county treasurer in the county area in which the tax is imposed and the revenues must be used only for the purposes stated in the imposition ordinance. The State Treasurer shall calculate this supplemental distribution on a proportional basis, based on the current fiscal year's county area revenue collections.

## **SECTION II. CONFLICTS**

If a section, subsection, or part of this Ordinance shall conflict with the provisions of a section, subsection or part of a preceding Ordinance of Horry County, then the preceding section, subsection, or part shall be deemed repealed and no longer in effect.

## **SECTION III. SEVERABILITY**

If any section, subsection, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other preemptive legal principle, then that section, subsection, or part of the Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.

## **SECTION IV. EFFECTIVE DATE**

This Ordinance shall become effective immediately upon approval at Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**HORRY COUNTY COUNCIL**

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Mark Lazarus, Chairman

Harold G. Worley, District 1  
Bill Howard, District 2  
Jimmy Washington, District 3  
Gary Loftus, District 4  
Tyler Servant, District 5  
Cam Crawford, District 6

Vacant, District 7  
Johnny Vaught, District 8  
W. Paul Prince, District 9  
Jody Prince, District 10  
Al Allen, District 11

Attest:

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Patricia S. Hartley, Clerk to Council

First Reading:  
Second Reading:  
Third Reading:

# 100 Miles of Dirt Roads to be Paved

## District 7 (9.75 miles)

Copperhead Road (1.64), Flossie Road (1.05), Reba Road (1.76), Kinlaw Lane (1.02), Pope Martin Road (0.86), Tranquil Road (2.46) and New Road (0.96)

## District 9 (15.48 miles)

Winburn Road (0.84), Tom Dorman Road (1.81), Suggs Street (1.34), Long Acres Drive (1.10), Dayton Drive (0.77), Wayside Drive (1.29), Hagan Road (0.77), Hufford Road (1.01), Sweet Home Drive (1.01), Birchfield Drive (0.80), Olin Road (0.93), Hewitt Road (0.83), Old Chesterfield Road (0.82), Tarton Drive (0.73), Vera Road (0.68) and Mill Swamp Road (0.75)

## District 10 (40.14 miles)

Rodney Road (1.54), Hucks Road (1.37), W G Road (1.07), Harvey Road (1.10), Gause Road (1.97), Bay Gully Road (1.71), Daphane Drive (0.78), McNabb Road (1.53), Fairlane Road (1.97), Neil Branch Road (1.46), Grainger Circle (1.77), Ware Drive (1.59), Memory Lane (1.01), Macedonia Drive (1.00), Harrelson Road (1.55), New Dawn Lane (1.48), Bedford Road (1.33), Gateway Drive (0.77), Dukes Road (1.45), Booth Road (1.21), Watts Road (0.89), Bonnie Bay Road (1.58), Grainger Road (1.41), Southfork Road (1.43), Westmoreland Road (1.22), Old Irish Road (0.87), Grahamville Road (0.79), Strickland Road (1.54), Tansy Road (1.41) and Cookes Circle (1.34)

## District 11 (34.77 miles)

Johnson Shortcut Road (1.69), Grier Dock Road (1.50), Page Road (1.98), John Cannon Road (1.36), Dorchester Road (1.04), Tyler Road (1.74), Bellaire Drive (1.71), Jordan Lake Road (1.33), Baywater Drive (1.24), Sycamore Circle (1.50), Hardwick Loop (0.96), Tranquil Road (1.69), Turner Road (1.53), Vick Road (0.84), Maplewild Road (1.64), Norris Road (1.44), Firehouse Road (0.85), Rosedale Drive (1.04), Sarvis Road (1.82), Hwy. 712 (1.64), McCracken Road (1.40), Providence Drive (1.35), Pasture Road (1.35), Marvin Road (1.17) and Minnick Road (0.96)