

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

ORDINANCE NO. 2014-28

An Ordinance to Impose a One Percent Sales and Use Tax, Subject to a Referendum, Within Georgetown County Pursuant to the Capital Project Sales Tax Act (S.C. Code Ann. Section 4-10-300, et seq.); to Define the Specific Purposes and Designate the Projects for Which the Proceeds of Such Tax May be Used; to Provide the Maximum Time for Which the Tax May Be Imposed; to provide for the Maximum Cost of the Projects or Facilities Funded from the Proceeds to Be Raised by the Tax; to Provide for a County-Wide Referendum and to Concur in the Contents of the Ballot Question in Such a Referendum; to Establish the Priority in Which the Proceeds of the Tax are To Be Expended; to Provide for the Conduct of Such Referendum; to Provide for the Administration of the Tax; to Provide for the Payment of the Tax; and to Provide for Other Matters Relating Thereto.

WHEREAS:

1. The South Carolina General Assembly has enacted the Capital Project Sales Tax Act, S.C. Code Ann. Section 4-10-300 et seq., pursuant to which the governing body may impose a one percent sales and use tax by ordinance, subject to a referendum, within the County area for a specific purpose or purposes and for a limited time to collect money for such purposes; and
2. The Georgetown County Council, as the governing body of Georgetown County, South Carolina, is authorized to create a commission subject to the provisions of S.C. Code Ann. Section 4-10-300 of the Capital Projects Sales Tax Act for the purpose of considering proposals for funding capital projects within the County area and the formulation of a referendum question which is to appear on the ballot. The Georgetown County Council adopted a Resolution pursuant to the Capital Projects Sales Tax Act on April 22, 2014 creating a commission for the purpose of considering proposals for funding capital projects within Georgetown County and the formulation of a referendum question which is to appear on the ballot. Members of the Capital Projects Sales Tax Commission were appointed by Georgetown County and the municipalities of Georgetown County in accordance with the provisions of Section 4-10-320 of the Capital Projects Sales Tax Act; and
3. The Georgetown County Capital Projects Sales Tax Commission has considered proposals for funding capital projects within Georgetown County and the Commission, by vote of the Commission in public meetings duly advertised, has adopted the projects described in this Ordinance, estimated the costs of such projects, identified the purpose for which the proceeds of the proposed capital projects sales and use tax shall be used, established the maximum time for which the sales and use tax may be imposed at four (4) years, established the cost of the projects or facilities to be funded from the proceeds of the tax, established a procedure by which the net proceeds of the sales and use tax are to be expended to the local government for the purpose stated, and formulated the ballot question that is to appear on the ballot pursuant to Section 4-10-330(d) of the Capital Project Sales Tax Act; and
4. The Georgetown County Council finds that a one percent sales and use tax should be levied within Georgetown County, for the purpose of designing, engineering, construction or improving highways, roads, sidewalks, streets and/or bridges; designing, engineering, constructing or improving public facilities for public safety services; designing, engineering, constructing, preparing or improving

spoil sites and dredging navigable waters of Georgetown County; and the purchase and development of property to support dredging and spoil sites and public safety services in Georgetown County, South Carolina, more specifically identified herein below in Section 4 of this Ordinance (herein referred to as the "projects" or the "capital projects") for a period not to exceed four (4) years from the date of imposition of this tax, to fund capital projects as herein defined and described to be funded from the net proceeds of sales and use tax imposed in Georgetown County pursuant to provisions of the Capital Sales Tax Act, SC Code Ann. Section 4-10-300 et seq. subject to approval of the qualified electors of Georgetown County voting in a referendum on the imposition of a capital projects sales and use tax in Georgetown County to be held on November 4, 2014. The imposition of such sales and use tax and the use of sales and use tax revenue, if approved in such referendum, shall be subject to the conditions precedent and conditions or restrictions on the use and expenditure of sales and use tax revenue as established by the Capital Project Sales Tax Act and the provisions of this Ordinance. Sales and use tax revenues shall be used for the purchase, design, engineering and construction, preparation or improvement of the projects established in this Ordinance including, if applicable, payment of such sums as may be required in connection with the issuance of bonds, the proceeds of which are applied to such capital projects; and

5. County Council finds that the imposition of a capital projects sales and use tax in Georgetown County for the projects and purposes defined in this Ordinance for a limited time not to exceed four (4) years will serve a public purpose, provide funding for the design, engineering, construction, preparation and improvement of highways, roads, streets, drainage systems and/or bridges, improve the flow of traffic into and through Georgetown County, facilitate economic development, promote public safety, provide necessary infrastructure, lessen congestion on the streets, roads and highways, facilitate the provision of adequate transportation, promote desirable living conditions, promote public health and safety in the event of fire, emergency, panic and other dangers and meet present and future needs of Georgetown County and its citizens.

NOW THEREFORE BE IT ENACTED BY THE GEORGETOWN COUNTY COUNCIL THAT:

1. A capital project sales and use tax, as authorized by the Capital Project Sales Tax Act, S.C. Code Ann. Section 4-20-300 et seq., is hereby imposed in Georgetown County, South Carolina, subject to a favorable vote of a majority of the qualified electors voting in a referendum on the imposition of such tax to be held in Georgetown County, South Carolina on November 4, 2014.

2. The capital project sales and use tax authorized herein shall be imposed for a period not to exceed four (4) years from the date of imposition. Projects listed herein are ranked in priority however nothing herein prevents projects from being funded simultaneously as determined by County Council.

3. The sales and use tax imposed herein shall be imposed only if a majority of the qualified electors voting in a referendum to be held in Georgetown County, South Carolina on November 4, 2014 vote in favor of imposing such tax for the stated purposes.

4. The capital projects sales and use tax authorized by this Ordinance shall be expended for the purposes stated as follows:

| | | |
|------------------------------|----|-----------|
| 1. Winyah Bay Dredging | \$ | 6,000,000 |
| 2. Murrells Inlet Dredging | | 8,000,000 |
| a. Disposal Site Preparation | | 2,300,000 |

| | |
|---|---------------|
| 3. Andrews Fire/Police Complex | 1,500,000 |
| 4. Fire Stations | 1,500,000 |
| 5. Road Resurfacing Projects | 8,912,550 |
| a. (Itemized List attached to Ordinance as Exhibit A) | |
| | <hr/> |
| | \$ 28,212,550 |

*In the event certain of the above County road resurfacing projects may not be accomplished for any reason, those paving projects listed may be undertaken in an alternate order to be determined by County Council.

5. If the imposition of the sales and use tax is approved by a majority of the qualified electors voting in a referendum to be held in Georgetown County on November 4, 2014, the new tax is to be imposed on May 1, 2015 in accordance with the Capital Project Sales Tax Act provided the Registration and Elections Commission of Georgetown County shall certify the results and the Georgetown County governing body shall, by Resolution, declare the results of the referendum and certify such results to the South Carolina Department of Revenue in a timely manner.

6. The capital projects sales and use tax imposed by this Ordinance, if approved in the referendum conducted on November 4, 2014, shall terminate on the thirtieth of April in 2019, not to exceed four years from the date of imposition.

7. The estimated maximum cost of the projects is \$28,212,550. Amounts of sales and use tax collected in excess of the required net proceeds must first be applied, if necessary, to complete a project for which the tax was imposed including payment of such sums as may be required in connection with the issuance of bonds and other debt obligations, the proceeds of which are applied to such capital projects. If funds still remain after first using the funds as described herein, the remaining funds must be used to fund the projects approved by the voters in the referendum to impose the tax, in priority order as the projects appeared on the enacting ordinance. However, if funds still remain after first using the funds as provided above 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 adoption of an ordinance by the County Governing Body specifying the authorized purposes or purposes for which the funds will be used.

8. The capital projects sales and use tax levied pursuant to this Ordinance must be administered and collected by the South Carolina 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.

9. The tax authorized by this Ordinance 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 of Title 12 of the Code of Laws of South Carolina, and the enforcement provisions of Chapter 54 of Title 12 of the Code of Laws of South Carolina. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36 of Title 12 of the Code of Laws of South Carolina are exempt from the tax imposed by this Ordinance. Unprepared food items eligible for purchase with United States Department of Agriculture food coupons are exempt from the tax imposed by this Ordinance. The tax imposed by

this Ordinance also applies to tangible personal property subject to the use tax in Article 13, Chapter 36 of Title 12 of the Code of Laws of South Carolina, as amended.

10. Taxpayers required to remit taxes under Article 13, Chapter 36 of Title 12 of the Code of Laws of South Carolina must identify the county, municipality or both in which the personal property purchased at retail is stored, used or consumed in this State.

11. Utilities are required to report sales in the county, municipalities or both, in which the consumption of the tangible personal property occurs.

12. A taxpayer subject to the tax imposed by Section 12-36-920, South Carolina Code Ann., who owns or manages rental units in more than one county, municipality or combination thereof, must report separate in his sales tax return the total gross proceeds from business done in each county or municipality.

13. 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, 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 Ordinance.

14. Notwithstanding the imposition date of the sales and use tax authorized pursuant to this section, with respect to services that are billed regularly on a monthly basis, the sales and use tax authorized pursuant to this Ordinance is imposed beginning on the first day of the billing period beginning on or after the imposition date.

15. The revenues of the tax collected under this Ordinance must be remitted to the South Carolina 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 such 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 revenue must be used only for the purposes stated in the imposition Ordinance. The State Treasurer may correct misallocations by adjusting subsequent distributions, but these distributions must be made in the same fiscal year as the misallocation.

16. The Department of Revenue shall furnish data to the State Treasurer and the Georgetown County Treasurer for the purpose of calculating distributions and estimating revenues. The information which must be supplied to counties and municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability to taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of South Carolina Code Ann. Section 12-54-240. Any person violating the provisions of this section shall be subject to the penalties provided for in South Carolina Code Ann., Section 12-54-240.

17. The Registration and Election Commission of Georgetown County shall conduct a referendum on the question of imposing a capital projects sales and use tax in the area of Georgetown County on Tuesday, November 4, 2014, between the hours of 7 a.m. and 7 p.m. under the election laws of the State of South Carolina, mutatis mutandis. The Georgetown County Registration and Election

Commission shall publish in a newspaper of general circulation the question that is to appear on the ballot, with the list of capital projects and the cost of projects, and shall publish such election and other notices as are required by law.

18. The referendum question to be on the ballot of the referendum to be held in Georgetown County on November 4, 2014, must read substantially as follows:

Must a special one percent sales and use tax be imposed in Georgetown County for not more than four (4) years from the date of imposition to raise the amounts specified for the following purposes?

| | | | |
|----|-----------------------------|----|---------------|
| 1. | Winyah Bay Dredging | \$ | 6,000,000 |
| | Murrells Inlet Dredging | | 8,000,000 |
| a. | Disposal Site Preparation | | 2,300,000 |
| 3. | Andrews Fire/Police Complex | | 1,500,000 |
| 4. | Fire Stations | | 1,500,000 |
| 5. | Road Resurfacing Projects | | 8,912,550 |
| | | | <hr/> |
| | | | \$ 28,212,550 |

Conditions and Restrictions on the Use of Sales and Use Tax Revenue Collected Under the Capital Project Sales Tax Act:

The capital project sales and use tax shall be used and expended for procurement, design, engineering, project management, construction, preparation or improvement of the capital improvements for dredging, public safety, and road improvement purposes listed above. Net proceeds of the capital project sale and use tax, if approved, must be expended for the purpose stated, in the priority listed above although projects may be funded simultaneously. Net proceeds of the capital project sales and use tax, if approved, may be used to pay debt service on bonds, if any, issued to pay the cost of certain projects. The expenditures of revenues from the capital projects sales and use tax, if approved, shall be subject to acquisition of property, right-of-way, design and engineering considerations, funding of projects from other sources, bids in excess of project estimates, qualifications of bidders, cost overruns, financing costs, exhaustion of insufficiency of net sales and use tax revenues to complete the projects in the order and priority stated above, and other unforeseen circumstances and conditions.

INSTRUCTIONS FOR VOTERS: All qualified electors of the County desiring to vote in favor of imposing the tax for the stated purposes 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 shall vote "NO".

| | |
|-----|-----|
| YES | { } |
| NO | { } |

19. In the referendum on the imposition of a special projects sales and use tax in Georgetown County, all qualified electors desiring to vote in favor of imposing the tax for the stated purpose shall vote "yes" and all qualified electors opposed to levying the tax shall vote "no". If a majority of the electors voting in the referendum shall vote in favor of imposing the tax, then the tax is imposed as provided in Capital Project Sales Tax Act, Section 4-10-300 et seq., and this Ordinance. Expenses of the referendum are to be paid by the governmental entity or entities that would receive the proceeds of the tax in the same proportion that those entities would receive the net proceeds of the tax.

20. Upon receipt of the returns of the referendum, the Georgetown County Council shall, by Resolution, declare the results thereof. The results of the referendum, as declared by the Resolution of the Georgetown County Council, are not open to question, except by suit or proceeding instituted within thirty (30) days from the date that Georgetown County Council shall adopt a Resolution declaring the results of such referendum.

21. The imposition of a capital project sales and use tax in Georgetown County is subject in all respects to the favorable vote of a majority of qualified electors casting votes in a referendum on the question of imposing a capital project sales and use tax in the area of Georgetown County in a referendum to be conducted by the Registration and Election Commission of Georgetown County on November 4, 2014, and the favorable vote of a majority of the qualified electors voting in such referendum shall be a condition precedent to the imposition of a capital project sales and use tax pursuant to the provisions of this Ordinance.

This Ordinance shall take effect immediately upon adoption.

23. All provisions in other County Ordinances in conflict with this Ordinance are hereby repealed.

24. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.

This Ordinance shall become effective on August 12, 2014.

Adopted at the regular meeting of Georgetown County Council on August 12, 2014.

ATTEST:

SIGNED:

Theresa E. Floyd, Clerk to Council

Johnny Morant, Chairman

REVIEWED BY: _____
Wesley P. Bryant, County Attorney

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| First Reading: | June 10, 2014 |
| Second Reading: | July 8, 2014 |
| Third Reading: | August 12, 2014 |
| Public Hearing: | August 12, 2014 |