

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

ORDINANCE NO. 2024-1906

AN ORDINANCE

TO LEVY AND IMPOSE A ONE PERCENT SALES AND USE TAX, SUBJECT TO A REFERENDUM, WITHIN LANCASTER COUNTY PURSUANT TO SECTION 4-37-30 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED; TO DEFINE THE SPECIFIC PURPOSES AND DESIGNATE THE PROJECTS FOR WHICH THE PROCEEDS OF THE TAX MAY BE USED; TO PROVIDE THE MAXIMUM TIME FOR WHICH SUCH TAX MAY BE IMPOSED; TO PROVIDE THE ESTIMATED COST OF THE PROJECTS FUNDED FROM THE PROCEEDS OF THE TAX; TO PROVIDE FOR A COUNTY-WIDE REFERENDUM ON THE IMPOSITION OF THE SALES AND USE TAX AND THE ISSUANCE OF GENERAL OBLIGATION BONDS AND TO PRESCRIBE THE CONTENTS OF THE BALLOT QUESTIONS IN THE REFERENDUM; TO PROVIDE FOR THE CONDUCT OF THE REFERENDUM BY THE BOARD OF ELECTIONS AND VOTER REGISTRATION OF LANCASTER COUNTY; TO PROVIDE FOR THE ADMINISTRATION OF THE TAX, IF APPROVED; TO PROVIDE FOR THE PAYMENT OF THE TAX, IF APPROVED; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings.

The County Council (“County Council”) of Lancaster County, South Carolina (the “County”), hereby finds and determines:

(a) The South Carolina General Assembly has enacted Section 4-37-30 of the Code of Laws of South Carolina 1976, as amended (the “Act”), pursuant to which the county governing body may impose by ordinance a sales and use tax in an amount not to exceed one percent, subject to the favorable results of a referendum, within the county area for a specific purpose or purposes and for a limited amount of time to collect a limited amount of money.

(b) Pursuant to the terms of Section 4-37-10 of the Code of Laws of South Carolina 1976, as amended (the S.C. Code”), the South Carolina General Assembly has authorized county government to finance the costs of highways, roads, streets, bridges and other transportation-related projects either alone or in partnership with other governmental entities. As a means to furthering the powers granted to the County under the provisions of Section 4-9-30 and Sections 6-21-10, *et seq.* of the S.C. Code, the County Council is authorized to form a transportation authority or to enter into a partnership, consortium, or other contractual arrangement with one or more other governmental entities pursuant to Title 4, Chapter 37 of the S.C. Code. The County Council has decided to provide funding for highways, roads, streets, bridges, greenways, and other transportation-related projects, *inter alia*, without the complexity of a transportation authority or entering into a partnership, consortium, or other arrangements with one or more other governmental entities at this time; provided that nothing herein preclude County Council from entering into partnerships, consortiums, or other contractual arrangements in the future. County Council may utilize such provisions in the future as necessary or convenient to promote the public purposes served by funding highways, roads, streets, bridges, greenways, and other transportation-related projects as provided in this Ordinance.

(c) The County Council finds that a one percent sales and use tax should be levied and imposed within the County, for financing the costs of highways, roads, streets, bridges, greenways, pedestrian and bike paths, sidewalk improvements and other transportation-related projects facilities, including but not limited to drainage facilities relating to the highways, roads, streets, bridges, and other transportation-related projects (the “Projects”).

For a period not to exceed 15 years from the date of imposition of such tax, to fund the Projects at a maximum cost not to exceed \$400,000,000 to be funded from the net proceeds of a sales and use tax imposed in the County pursuant to provisions of the Act, subject to approval of the qualified electors of the County in referendum to be held on November 5, 2024. The imposition of the sales and use tax and the use of sales and use tax revenue, if approved in the referendum, shall be subject to the conditions precedent and conditions or restrictions on the use and expenditure of sales and use tax revenue established by the Act, the provisions of this Ordinance, and other applicable law. Subject to annual appropriations by County Council, sales and use tax revenues shall be used for the costs of the Projects established in this Ordinance, as it may be amended from time to time, including, without limitation, payment of administrative costs of the Projects, and such sums as may be required in connection with the issuance of bonds, the proceeds of which are applied to pay costs of the Projects. All spending shall be subject to an annual independent audit to be made available to the public.

(d) County Council finds that the imposition of a sales and use tax in the County for the Projects and purposes defined in this Ordinance for a limited time not to exceed 15 years to collect a limited amount of money will serve a public purpose, provide funding for highways, roads, streets, bridges, greenways, and other transportation-related projects as provided in this Ordinance to facilitate economic development, promote public safety, provided needed infrastructure, promote desirable living conditions, enhance the quality of life in the County, and promote public health and safety in the event of fire, emergency, panic, and other dangers, and prepare the County to meet present and future needs of Lancaster County and its citizens.

Section 2. Approval of Sales and Use Tax Subject to Referendum.

(a) A sales and use tax (the “Sales and Use Tax”), as authorized by the Act, is hereby imposed in the County, subject to a favorable vote of a majority of the qualified electors voting in a referendum on the imposition of the Sales and Use Tax to be held in the County on November 5, 2024.

(b) The Sales and Use Tax shall be imposed for a period not to exceed 15 years from the date of imposition.

(c) The maximum cost of the Projects to be funded from the proceeds of the Sales and Use Tax shall not exceed, in the aggregate, the sum of \$400,000,000, and the maximum amount of net proceeds to be raised by the tax shall not exceed \$400,000,000, which includes administrative costs and debt service on bonds issued to pay for the Projects. The estimated principal amount of initial authorization of bonds to be issued to pay costs of the Projects and to be paid by a portion of the Sales and Use Tax is \$_____.

(d) The Sales and Use Tax shall be expended for the costs of the following Projects, including payment of any sums as may be required for the issuance of and debt service for bonds, the proceeds of which are applied to such Projects, for financing the costs of highways, roads, streets, bridges, greenbelts, pedestrian and bike paths, sidewalk improvements and other transportation-related projects facilities, including but not limited to drainage facilities relating to the highways, roads, streets, bridges, greenways, pedestrian and bike paths, sidewalk improvements and other transportation-related projects including but not limited to: Widening Highway 521 and other major road widenings; intersection improvements;

roundabouts; County-maintained road priorities; resurfacing/rehabilitation of County, South Carolina Department of Transportation, and municipal roads; and transportation related to economic development projects.

The amount of the maximum total funds to be collected which shall be expended for these Projects and purposes shall be no more than \$400,000,000.

(e) If the Sales and Use Tax is approved by a majority of the qualified electors voting in a referendum to be held in the County on November 5, 2024, the Sales and Use Tax is to be imposed on the first day of May, 2025, provided the Board of Voter Registration and Elections of Lancaster County (the "Elections Board") shall certify the results not later than November 30, 2024, to Lancaster County Council and the South Carolina Department of Revenue. Included in the certification must be the maximum cost of the Projects to be funded in whole or in part from the proceeds of the Sales and Use Tax, the maximum time specified for the imposition of the Sales and Use Tax, and the principal amount of initial authorization of bonds, if any, to be supported by a portion of the Sales and Use Tax.

(f) The Sales and Use Tax, if approved in the referendum conducted on November 5, 2024, shall terminate on the earlier of:

(i) on April 30, 2040; or

(ii) the end of the calendar month during which the Department of Revenue determines that the Sales and Use Tax has raised revenues sufficient to provide the greater of either the costs of the Projects as approved in the referendum or the cost to amortize all debts related to the approved Projects.

(g) Amounts of Sales and Use Tax collected in excess of the required proceeds must first be applied, if necessary, to complete each project for which the Sales and Use Tax was imposed. Any additional revenue collected above the specified amount must be applied to the reduction of debt principal of the County on transportation infrastructure debts only.

(h) The Sales and Use Tax 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 Sales and Use Tax.

(i) The Sales and Use Tax 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 S.C. Code and the enforcement provisions of Chapter 54 of Title 12 of the S.C. Code. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36 of Title 12 of the S.C. Code are exempt from the Sales and Use Tax imposed by this Ordinance. The gross proceeds of the sale of food lawfully purchased with United States Department of Agriculture Food Stamps are exempt from the Sales and Use Tax imposed by this Ordinance. The Sales and Use Tax imposed by this Ordinance also applies to tangible property subject to the use tax in Article 13, Chapter 36 of Title 12 of the S.C. Code.

(j) Taxpayers required to remit taxes under Article 13, Chapter 36 of Title 12 of the S.C. Code must identify the county in which the personal property purchased at retail is stored, used, or consumed in this State.

(k) Utilities are required to report sales in the county in which the consumption of the tangible personal property occurs.

(l) A taxpayer subject to the tax imposed by Section 12-36-920 of the S.C. Code 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.

(m) The gross proceeds of sales of tangible personal property delivered after the imposition date of the Sales and Use Tax, either under the terms of a construction contract executed before the imposition date, or 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 ordinance if a verified copy of the contract is filed with Department of Revenue within six months after the imposition date of the sales and use tax provided for in this Ordinance.

(n) Notwithstanding the imposition date of the Sales and Use Tax 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.

Section 3. Procedures Related to Distribution of Sales and Use Tax.

(a) The revenues of the Sales and Use Tax collected under this Ordinance must be remitted to 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 and the revenues must be used only for the purposes stated herein. The State Treasurer may correct misallocations by adjusting subsequent distributions, but these distributions must be made in the same fiscal year as the misallocation. However, allocations made as a result of city or County code errors must be corrected prospectively.

(b) (i) Any outside agencies, political subdivisions or organizations designated to receive funding from the Sales and Use Tax must annually submit requests for funding in accordance with procedures and schedules established by the County Administrator. The County Administrator shall prepare the proposed budget for the Sales and Use Tax and submit it to the County Council at such time as the County Council determines. At the time of submitting the proposed budget, the County Administrator shall submit to the County Council a statement describing the important features of the proposed budget.

(ii) County Council shall adopt annually and prior to the beginning of fiscal year a budget for expenditures of Sales and Use Tax revenues. County Council may make supplemental appropriations for the Sales and Use Tax following the same procedures prescribed for the enactment of other budget ordinances. The provisions of this section shall not be construed to prohibit the transfer of funds appropriated in the annual budget for the Sales and Use Tax for purposes other than as specified in the annual budget when such transfers are approved by County Council. In the preparation of the annual budget, County Council may require any reports, estimates, and statistics from any county agency or department as may be necessary to perform its duties as the responsible fiscal body of the County.

(iii) Except as specifically authorized by County Council, any outside agency or organization receiving an appropriation of the Sales and Use Tax must provide to County Council an independent annual audit of such agency's or organization's financial records and transactions and such other and more frequent financial information as required by County Council, all in form satisfactory to County Council.

(c) The Department of Revenue shall furnish data to the State Treasurer and to the Lancaster County Treasurer for the purpose of calculating distributions and estimating revenues. The information which must be supplied to the County 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 of the S.C. Code. Any person violating the provisions of this section shall be subject to the penalties provided in Section 12-54-240 of the S.C. Code.

Section 4. Sales and Use Tax Referendum; Ballot Question.

(a) The Elections Board shall conduct a referendum on the question of imposing the Sales and Use Tax in the County on Tuesday, November 5, 2024, between the hours of 7 a.m. and 7 p.m. under the election laws of the State of South Carolina, *mutatis mutandis*. The Elections Board shall publish in a newspaper of general circulation the question that is to appear on the ballot, with the list of Projects and purposes as set forth herein, and the cost of Projects, and shall publish such election and other notices as are required by law.

(b) The referendum question to be on the ballot of the referendum to be held in Lancaster County on November 5, 2024, must read substantially as follows:

LANCASTER COUNTY SPECIAL SALES AND USE TAX

QUESTION 1

I approve a special sales and use tax in the amount of one percent to be imposed in Lancaster County for not more than twenty-five (25) years, or until a total of \$400,000,000 in resulting revenue has been collected, whichever occurs first. The sales tax proceeds will be used to finance the costs of highways, roads, streets, bridges, greenways, pedestrian and bike paths, sidewalk improvements and other transportation-related projects facilities, including but not limited to drainage facilities relating to the highways, roads, streets, bridges, greenways, pedestrian and bike paths, sidewalk improvements and other transportation-related projects. \$_____.

YES _____
NO _____

Instructions to Voters: All qualified electors desiring to vote in favor of levying the special sales and use tax shall vote "YES;" and

All qualified electors opposed to levying the special sales and use tax shall vote "NO."

QUESTION 2

I approve the issuance of not exceeding \$_____ of general obligation bonds of Lancaster County, payable from the special sales and use tax described in Question 1 above, maturing over a period not to exceed fifteen (15) years, to fund completion of projects described in Question 1 above.

YES _____
NO _____

Instructions to Voters: All qualified electors desiring to vote in favor of the issuance of bonds for the stated purposes shall vote “YES;” and

All qualified electors opposed to the issuance of bonds for the stated purposes shall vote “NO.”

(c) In the referendum on the imposition of the Sales and Use Tax in the County, 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 electors voting in the referendum shall vote in favor of imposing the tax, then the tax is imposed as provided in the Act and this Ordinance. Expenses of the referendum must be paid by the County.

(d) In the referendum on the issuance of bonds, all qualified electors desiring to vote in favor of the issuance of bonds for the stated purpose shall vote “yes” and all qualified electors opposed to the issuance of bonds shall vote “no”. If a majority of the electors voting in the referendum shall vote in favor of the issuance of bonds, then the issuance of bonds shall be authorized in accordance with S.C. Constitution Article X, Section 14, Paragraph (6). Expenses of the referendum must be paid by the County.

Section 5. Imposition of Sales and Use Tax Subject to Referendum.

The imposition of the Sales and Use Tax in the 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 the Sales and Use Tax in the County in a referendum to be conducted by the Elections Board on November 5, 2024, and the favorable vote of a majority of the qualified electors voting in such referendum shall be a condition precedent to the imposition of the Sales and Use Tax pursuant to the provisions of this Ordinance.

Section 6. Miscellaneous.

(a) If any one or more of the provisions or portions hereof are determined by a court of competent jurisdiction to be contrary to law, then that provision or portion shall be deemed severable from the remaining terms or portions hereof and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance; if any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied to any particular case in any jurisdiction or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, those circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever; provided, however, that the Sales and Use Tax may not be imposed without the favorable results of the referendum to be held on November 5, 2024.

(b) This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina and all suits and actions arising out of this Ordinance shall be instituted in a court of competent jurisdiction in this State.

(c) The headings or titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation, or effect of this ordinance.

(d) All previous ordinances regarding the same subject matter as this Ordinance are hereby repealed.

Section 7. **Effective Date.** This ordinance is effective upon third reading.

AND IT IS SO ORDAINED, THIS _____ DAY OF _____, 2024.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Billy Mosteller, Secretary, County Council

Attest:

Sherrie Simpson, Clerk to Council

Approved as to form:

Virginia L. Merck-Dupont, County Attorney

1st reading: May 13, 2024
Public Hearing: May 28, 2024
2nd reading: May 28, 2024
3rd reading: June 10, 2024