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FAIRFIELD COUNTY, SOUTH CAROLINA

ORDINANCE NO. 750

AN ORDINANCE ENACTED PURSUANT TO THE CAPITAL PROJECT SALES TAX ACT, TITLE 4, CHAPTER 10, ARTICLE 3 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, PROVIDING FOR THE IMPOSITION OF A ONE PERCENT SALES AND USE TAX AND THE AUTHORIZATION OF GENERAL OBLIGATION BONDS UPON REFERENDUM APPROVAL, THE FORM OF THE BALLOT TO BE USED IN CONNECTION THEREWITH, AND OTHER MATTERS RELATING THERETO.

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ENACTED July 27, 2020

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BE IT ORDAINED BY THE COUNTY COUNCIL OF FAIRFIELD COUNTY, SOUTH CAROLINA, AS FOLLOWS:

ARTICLE I

FINDINGS

Section 1.01 Findings

In connection with the enactment of this ordinance (this “**Ordinance**”), the County Council of Fairfield County (the “**County Council**”), the governing body of Fairfield County, South Carolina (the “**County**”), hereby finds and determines:

(a) Pursuant to the Capital Project Sales Tax Act, codified at Title 4, Chapter 10, Article 3 of the Code of Laws of South Carolina 1976, as amended (the “**CPST Act**”), the County Council is authorized to impose a one percent sales and use tax (the “**Tax**”), subject to referendum approval in the County. The proceeds of the Sales and Use Tax must be applied for the purposes identified by a commission organized pursuant to Section 4-10-320 of the CPST Act.

(b) The County Council created the Fairfield County Capital Project Sales Tax Commission (the “**Commission**”) by resolution adopted on March 9, 2020.

(c) By letter dated March 9, 2020, the South Carolina Revenue and Fiscal Affairs Office has estimated that the Tax imposed in the County will generate \$1,446,896 annually for fiscal years 2021-22 through 2023-24. Based upon these projections, the Commission has considered that the Tax may generate approximately \$11,500,000 over its 8-year term.

(d) The Commission discharged its duties under the CPST Act, considering proposals for the funding of capital projects within the County area and determining that the proceeds of the Tax should be applied to fund, in whole or in part, to defray the cost capital projects within the County in an estimated amount of \$14,000,000.

(e) By resolution dated June 11, 2020, (the “**Commission Resolution**”), a copy of which is attached hereto at Exhibit A, the Commission provided the form of the ballot question (the “**Ballot Question**”) to be included on the ballot for the November 3, 2020 general election ballot, subject to the approval of the County Council. The Ballot Question sets forth the Commission’s determination regarding which capital projects are eligible to be funded, in whole or in part, from the proceeds of the Tax (as more specifically described in the “**Capital Projects**”).

(e) Pursuant to Section 4-10-330(A)(4) of the Capital Project Sales Tax Act, and as set forth in the Commission Resolution, the Commission determined to provide conditions and restrictions on the use of the proceeds of the Tax.

(f) The County Council has received the Commission Resolution and the proposed Ballot Question and finds that the health, safety and welfare of the residents of the County shall be benefited from the imposition of the Tax to fund all or a portion of the Capital Projects, and is

now minded to enact this Ordinance imposing the Tax, subject to a favorable result in a referendum to be held at the next general election, as defined in the Capital Project Sales Tax Act, on November 3, 2020 (the “*Referendum*”).

(g) In order to provide funding for the Capital Projects described on the Ballot Question in as expeditious a manner as possible, to allow for projects to be funded simultaneously, to ensure sufficient funds are on hand at times appropriate for expected construction draws, and to make the most economic and efficient use of Sales and Use Tax proceeds, County Council has determined to provide for the issuance of general obligation bonds in an amount of up to \$9,350,000 (as more specifically defined in Section 3.01 of this Ordinance, the “*Bonds*”), subject to Referendum approval.

(h) In accordance with Section 4-10-330 of the CPST Act, this ordinance (i) imposes the Tax subject to Referendum approval; (ii) contains the Ballot Question (as modified to provide for the authorization to issue Bonds); (iii) specifies the purposes for which the Tax proceeds will be used; (iv) states the maximum time for which the Tax shall be imposed and recites the date of imposition and termination of the Tax if approved at the Referendum; (v) provides for the authorization of Bonds subject to Referendum approval, including the maximum amount of Bond proceeds to be used to fund the Capital Projects and the amount of Tax proceeds expected to be used to pay the costs of the Capital Projects and the debt service on such Bonds; (vi) recites the restrictions and conditions on the use of Tax proceeds determined by the Commission; (vii) sets forth the priority in which the proceeds of the Tax or Bonds are to be expended on the Capital Projects and the conditions under which the Capital Projects may be funded simultaneously; and (viii) directs the Clerk to County Council to transmit this ordinance to the Fairfield County Election Commission.

## ARTICLE II

### SALES AND USE TAX IMPOSITION, PURPOSES, RESTRICTIONS AND CONDITIONS

#### Section 2.01 Imposition, Term

The County Council hereby imposes the Sales and Use Tax in the County for the 8-year period beginning May 1, 2021, and ending April 30, 2029, subject to Referendum approval.

#### Section 2.02 Purposes

The Sales and Use Tax proceeds shall be applied for the purpose of funding the Capital Projects set forth on the Ballot Question, subject to the conditions and restrictions set forth in the Commission Resolution and recited in Section 2.04 of this Ordinance.

#### Section 2.03 Priority and Simultaneous Funding of the Capital Projects

Subject to the restrictions and conditions on the use of the proceeds of the Tax set forth in the Commission Resolution and recited in Section 2.04 of this Ordinance by which any Capital Project may be declared an impossibility, the proceeds of the Tax shall be applied to fund the



Capital Projects in the order in which the Capital Projects are listed in the Ballot Question, the with Wastewater Treatment Capacity Project being funded to completion first and the Sewer Line and Infrastructure Project being funded to completion second; provided, however, that in the event that County Council finds that sources of funds have been identified and are subject to reasonably firm commitments that, along with a sufficient amount of the proceeds of the Tax or the Bonds, are sufficient to fully fund the Wastewater Treatment Capacity Project, the proceeds of the Tax or the Bonds may simultaneously be applied to fund the Sewer Line and Infrastructure Project.

Section 2.04 Restrictions and Conditions on the Use of Tax Proceeds

Pursuant to Section 4-10-330(A)(4) of the Capital Project Sales Tax Act, the Commission determined to provide certain condition and restrictions on the use of the proceeds of the Tax for any Capital Project, viz.:

As recited in the Ballot Question, the proceeds of the Tax and the proceeds of any bonds to be repaid by the proceeds of the Tax (the “Bonds”) shall be used and expended for any capital cost of the Capital Projects, which include the costs of procurement, design, engineering, project management, construction and/or improvement of the Capital Projects and the acquisition of property and/or rights-of-way necessary for the construction or installation of any Capital Project, including the payment of any costs in connection with the issuance of Bonds. The expenditures of revenues from the Tax or the proceeds of any Bonds on any Capital Project, if approved, shall be subject to the following factors: unavailability of project funds from other sources, ability to acquire necessary property and rights-of-way, design and engineering considerations, the receipt of all necessary permits and regulatory approvals, funding of the Capital Projects from other sources (including anticipated or unanticipated grants that fund a Capital Project), bids in excess of project estimates, qualifications of bidders, cost overruns, financing costs, exhaustion or insufficiency of net Tax revenues or Bond proceeds to complete the Capital Projects, and other unforeseen circumstances and conditions. In addition to the above-stated conditions, County Council shall take into account whether the Wastewater Treatment Capacity Project, which is estimated to cost \$33,000,000 in total, has received an appropriation from the State of South Carolina or other source of funds needed to complete such project within 6 years of the imposition of the Tax. In the event any of the foregoing occurrences render the undertaking of any Capital Project an impossibility, the County Council shall, by ordinance, make findings regarding the same before declaring the Capital Project impossible.

ARTICLE III

BOND AUTHORIZATION

Section 3.01 Principal Amount, Security, Authorization

(a) The County Council has determined to seek at the Referendum authorization for the issuance of not exceeding \$9,350,000 aggregate principal amount general obligation bonds of the County (the “**Bonds**”) for the purposes of funding the Capital Projects, plus issuance costs, to



be paid from the Tax to be imposed as stated herein and pledged to the payment of the principal of and interest on the Bonds, and, in the event such Tax is inadequate, such Bonds shall be payable from a sufficient *ad valorem* tax imposed on all taxable property in the County.

(b) The Bonds shall be issued pursuant to Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended; Title 4, Chapter 15 and Title 11, Chapter 27 of the Code of Laws of South Carolina 1976, as amended; and an ordinance to be enacted by the County Council providing for the terms thereof. The Bonds may be issued as a single issue or from time to time as several separate issues, provided that the Bonds authorized at the Referendum must be issued within five years from the date thereof pursuant to the County Bond Act, Title 4, Chapter 15 of the Code of Laws of South Carolina 1976, as amended.

(c) The inclusion in the Ballot Question for the authorization for the issuance of the Bonds, as set forth in draft form in the form of the Ballot Question submitted to the County Council by the Commission, is hereby approved.

Section 3.03 Use of Bond Proceeds, Use of Tax Proceeds for Debt Service; Other Funding Sources

(a) The maximum cost of the Capital Projects to be funded from proceeds of the Bonds is \$9,350,000, which is the not-exceeding principal amount of the Bonds. The maximum cost of the Capital Projects to be funded from the Bonds and the Sales and Use Tax is approximately \$14,000,000. Accordingly, the maximum amount of Tax proceeds expected to be used to pay the costs of the Capital Projects and debt service on the Bonds is \$14,000,000. Funds for the Capital Projects other than proceeds of the Tax or the Bonds shall be applied to fund the Capital Projects as provided at Section 2.03 hereof. Any investment earnings on the Bond proceeds shall be paid to defray debt service on the Bonds or complete Capital Projects, in the discretion of County Council and after taking into account relevant tax regulatory and arbitrage considerations upon advice of bond counsel.

(b) The Capital Projects may be funded from any combination of the proceeds of the Tax; proceeds of the Bonds; cash on hand of the County or any other public entity, proceeds of bonds issued by the Fairfield Joint Water and Sewer System, the County, or any other public entity; grant proceeds or other federal or State appropriations; or any other lawful source of funds.

ARTICLE IV

REFERENDUM

Section 4.01 Ballot Question

The Ballot Question as formulated by the Commission and set forth at Exhibit A of the Commission Resolution, to include the draft language authorizing the issuance of the Bonds, is hereby approved.

Section 4.02 Certification of Referendum

The Fairfield County Election Commission shall conduct the Referendum under the election laws of this State, *mutatis mutandis*, and shall certify the result to the County Council and to the South Carolina Department of Revenue no later than November 30, 2020. The County Council shall thereafter declare the result of the Referendum by resolution.

Section 4.03 Notice of Referendum

To assist the Fairfield County Election Commission in complying with the Capital Project Sales Tax Act, the specific contents of the notice of the Referendum required by the Capital Project Sales Tax Act are described in Exhibit B hereto.

ARTICLE V

OTHER MATTERS

Section 5.01 Transmittal to Election Commission

Upon enactment of this ordinance, the Clerk to County Council is directed to provide the same to the Fairfield County Election Commission with direction to provide for the submission of the Ballot Question to the electors of the County at the Referendum.

Section 5.02 Authorization for Further Action

The County Council hereby authorizes the County Administrator to take all action necessary and convenient in connection with implementing this ordinance.

Section 5.03 Effective Date

This ordinance shall take effect upon third and final reading thereof.

DONE, RATIFIED, AND ENACTED AT A MEETING OF THE COUNTY COUNCIL  
OF FAIRFIELD COUNTY DULY ASSEMBLED THIS 27ND DAY OF JULY 2020.

**FAIRFIELD COUNTY, SOUTH CAROLINA**

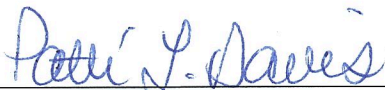
(SEAL)



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Cornelius Robinson, Chairman  
Fairfield County Council

Attest:



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Patti L. Davis  
Clerk to County Council

First Reading:        June 22, 2020  
Second Reading:     July 13, 2020  
Public Hearing:        July 13, 2020  
Third Reading:        July 27, 2020



EXHIBIT A

FAIRFIELD COUNTY CAPITAL PROJECT SALES TAX COMMISSION RESOLUTION

DATED JUNE 11, 2020

**EXHIBIT B**  
**CONTENTS OF**  
**NOTICE OF REFERENDUM**

The County Council of Fairfield County requests that the following be included in the notice published by the Fairfield County Election Commission and that such notice appear in a newspaper of general circulation in Fairfield County not less than two weeks prior to the Referendum:

1. The Form of the Ballot, attached as Exhibit A.
2. In accordance with Section 4-10-330(C) of the Code of Laws of South Carolina, 1976, as amended, the following statement:

The question is being submitted pursuant to Title 4, Chapter 10, Article 3 of the Code of Laws of South Carolina 1976, as amended, and an ordinance of the County Council of Fairfield County, South Carolina (the "County Council") enacted on July \_\_, 2020. The referendum question includes both the imposition of a sales and use tax and the issuance of general obligation bonds. If a majority of qualified electors of the County voting in the referendum vote in favor of the question, a one percent sales and use tax will be imposed in the County for a period of 8 years beginning May 1, 2021, and ending April 30, 2029, and the County Council will be authorized to issue not exceeding \$9,350,000 principal amount of general obligation bonds to defray the costs of the projects listed on the ballot question and issuance costs.



**A RESOLUTION OF THE FAIRFIELD COUNTY CAPITAL PROJECT SALES TAX COMMISSION REGARDING THE FORM OF THE PROPOSED BALLOT QUESTION PURSUANT TO TITLE 4, CHAPTER 20, ARTICLE 3 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, AND OTHER MATTER RELATED THERETO.**

BE IT RESOLVED BY THE FAIRFIELD COUNTY CAPITAL PROJECT SALES TAX COMMISSION IN A MEETING DULY ASSEMBLED:

In connection with the adoption of this resolution (the "**Resolution**") the Fairfield County Capital Project Sales Tax Commission (the "**Commission**") makes the following findings of fact:

(A) Title 4, Chapter 10, Article 3 of the Code of Laws of South Carolina 1976, as amended (the "**CPST Act**") authorizes counties to impose a one percent sales and use tax by ordinance (the "**Tax**"), subject to a referendum within such county, to fund specific capital improvement projects and for a limited amount of time not to exceed 8 years.

(B) Pursuant to Section 4-10-320 of the CPST Act, the County Council of Fairfield County (the "**County Council**"), the governing body of Fairfield County, South Carolina ("**Fairfield County**"), created the Commission by resolution dated March 9, 2020 (the "**CPST Resolution**").

(C) In accordance with the appointive index, as calculated pursuant to the CPST Act, pursuant to the CPST Resolution the County Council appointed three commissioners to the Commission, and the City Council of the Town of Winnsboro appointed two commissioners to the Commission (the "**Municipal Appointees**") by resolution dated March 17, 2020.

(D) In a meeting of the Commission duly assembled and held on April 15, 2020, the Municipal Appointees voted to appoint the remaining commissioner to the Commission who, as required by the CPST Act, is a resident of the Town of Ridgeway, South Carolina, which is a municipality within Fairfield County that had not provided representation on the Commission.

(E) By letter dated March 9, 2020, the South Carolina Revenue and Fiscal Affairs Office has estimated that the Tax imposed in Fairfield County will generate \$1,446,896 annually for fiscal years 2021-22 through 2023-24. Based upon these projections, the Commission has considered that the Tax may generate approximately \$11,500,000 over its 8-year term.

(F) Upon due consideration of the capital needs of Fairfield County, the Commission has considered funding proposals for capital projects within Fairfield County and has determined that the Wastewater Treatment Capacity Project and the Sewer Lines and Infrastructure Project (together, the "**Capital Projects**") should be funded, in whole or in part, by the proceeds of the Tax, in a total estimated amount of \$14,000,000.

(G) The Commission acknowledges that the costs of the Capital Projects that may be defrayed by the proceeds of the Tax exceed the estimates of the Tax collections over its 8-year term, and further acknowledges that additional funding sources will be required to fund the full

cost of the Capital Projects. In so doing, it is the intent of the Commission that the full amount of the proceeds of the Tax be solely expended on the Capital Projects in order to offset the funds that must be obtained from other sources, subject to the conditions for the use of the Tax proceeds set forth in Section 2 of this Resolution and recited in the Ballot Question (as defined herein) and the provisions of the CPST Act.

(H) The Commission has included proposed language authorizing the issuance of Bonds (as defined herein) to fund the Capital Projects in the draft of the Ballot Question presented to the County Council, but acknowledges that, pursuant to the CPST Act, County Council may, in its sole discretion, determine to revise or eliminate the such authorization. The inclusion of an authorization to issue the Bonds is not to be construed as a condition precedent to the imposition or a restriction on the use of the Tax.

**NOW THEREOFRE, BE IT RESOLVED** by the Commissioners of the Fairfield County Capital Project Sales Tax Commission in a meeting duly assembled as follows:

**Section 1. Approval of Ballot Question.** The form of the Ballot Question attached as Exhibit A to this Resolution (the "**Ballot Question**"), as formulated by the Commission in carrying out its responsibility under the CPST Act, is hereby approved. Pursuant to Section 4-10-330(D) of the CPST Act, the Commission has determined the Ballot Question to be included on the November 3, 2020 general election ballot, subject to the approval of County Council, must read substantially as set forth in Exhibit A, except to the extent that the County Council may make any additions or amendments to the Ballot Question as authorized by the CPST Act. The Commission directs the Chairman of the Commission to provide this Resolution and the Ballot Question to the County Council for its consideration.

**Section 2. Conditions on the Use of Tax Proceeds.** As recited in the Ballot Question, the proceeds of the Tax and the proceeds of any bonds to be repaid by the proceeds of the Tax (the "**Bonds**") shall be used and expended for any capital cost of the Capital Projects, which include the costs of procurement, design, engineering, project management, construction and/or improvement of the Capital Projects and the acquisition of property and/or rights-of-way necessary for the construction or installation of any Capital Project, including the payment of any costs in connection with the issuance of Bonds. The expenditures of revenues from the Tax or the proceeds of any Bonds on any Capital Project, if approved, shall be subject to the following factors: unavailability of project funds from other sources, ability to acquire necessary property and rights-of-way, design and engineering considerations, the receipt of all necessary permits and regulatory approvals, funding of the Capital Projects from other sources (including anticipated or unanticipated grants that fund a Capital Project), bids in excess of project estimates, qualifications of bidders, cost overruns, financing costs, exhaustion or insufficiency of net Tax revenues or Bond proceeds to complete the Capital Projects, and other unforeseen circumstances and conditions. In addition to the above-stated conditions, County Council shall take into account whether the Wastewater Treatment Capacity Project, which is estimated to cost \$33,000,000 in total, has received an appropriation from the State of South Carolina or other source of funds needed to complete such project within 6 years of the imposition of the Tax. In the event any of the foregoing occurrences render the undertaking of any Capital Project an impossibility, the County Council

shall, by ordinance, make findings regarding the same before declaring the Capital Project impossible.

**Section 3.** This Resolution is effective immediately upon its adoption by the Commission.

DONE AND RESOLVED this 11th day of June, 2020.

FAIRFIELD COUNTY CAPITAL PROJECT SALES  
TAX COMMISSION

  
\_\_\_\_\_  
Chairman

Attest:

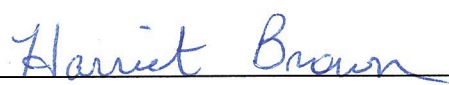
  
\_\_\_\_\_  
Secretary



EXHIBIT A

FORM OF BALLOT QUESTION

Question

Must a special one percent sales and use tax be imposed in Fairfield County (the "County") for eight years to raise the amounts specified for the following purposes:

**Project**

<u>No.</u>	<u>Project Description</u>	<u>Cost</u>
1	Wastewater Treatment Capacity Project – The construction of a new wastewater treatment facility and related infrastructure, to include necessary discharge lines and other related infrastructure to provide increased wastewater treatment capacity within Fairfield County.	\$11,500,000
2	Sewer Lines and Infrastructure Project – The construction and installation of sewer lines and related infrastructure, to include sewer collection and trunk lines, sewer pump stations, and other infrastructure and appurtenances necessary to extend sewer service to new and existing customers.	\$2,500,000
<b>Total</b>		<hr/> <b>\$14,000,000</b> <hr/>

[And 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") of the County in an aggregate principal amount not exceeding \$9,350,000, to defray the costs of the projects listed above plus costs of issuance, to be paid from the sales and use tax to be imposed as stated herein and pledged to the payment of the principal of and interest on the Bonds, and, in the event such sales and use tax is inadequate, such Bonds shall be payable from a sufficient ad valorem tax imposed on all taxable property in the County]?

**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 proceeds of the Bonds shall be used and expended for any capital cost of the projects, which include the costs of procurement, design, engineering, project management, construction and/or improvement of the projects listed above and the acquisition of property and/or rights-of-way necessary for the construction and installation of any project, including the payment of any costs in connection with the issuance of Bonds. The expenditures of revenues from the capital projects sales and use tax or the proceeds of any Bonds on any project listed above, if approved, shall be subject to the following factors: unavailability of project funds from other sources, ability to acquire necessary property and rights-of-way, design and engineering considerations, the receipt of all necessary permits and regulatory approvals, funding of projects from other sources (including anticipated or unanticipated grants that fund a project), bids in excess of project estimates, qualifications of bidders, cost overruns, financing costs, exhaustion or

insufficiency of net sales and use tax revenues or Bond proceeds to complete the projects, and other unforeseen circumstances and conditions. In addition to the above-stated conditions, County Council shall take into account whether the Wastewater Treatment Capacity Project, which is estimated to cost \$33,000,000 in total, has received an appropriation from the State of South Carolina or other source of funds needed to complete such project within 6 years of the imposition of the capital projects sales and use tax. In the event any of the foregoing occurrences render the undertaking of any project an impossibility, the County Council shall, by ordinance, make findings regarding the same before declaring the project impossible.

**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 Bonds shall vote "NO."

Yes [ ]  
No [ ]