

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

ORDINANCE NO. 05-09-16

AN ORDINANCE TO IMPOSE A ONE PERCENT SALES TAX, SUBJECT TO A REFERENDUM, WITHIN NEWBERRY COUNTY PURSUANT TO THE CAPITAL PROJECT SALES TAX ACT; 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 THE TAX MAY BE IMPOSED; TO PROVIDE THE MAXIMUM COST OF THE PROJECTS OR FACILITIES FUNDED FROM THE PROCEEDS TO BE RAISED BY THE TAX, SUBJECT TO FUNDING COST OVERRUNS AS PROVIDED BY LAW; TO PROVIDE FOR A COUNTY-WIDE REFERENDUM AND TO CONCUR IN THE CONTENTS OF THE BALLOT QUESTION IN SUCH REFERENDUM; TO ESTABLISH THE PRIORITY IN WHICH THE PROCEEDS OF THE TAX ARE TO BE EXPENDED; TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF NEWBERRY COUNTY, SUBJECT TO SUCH REFERENDUM, TO DEFRAY COSTS OF PROJECTS AND ISSUANCE COSTS; 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.

BE IT ENACTED BY THE COUNTY COUNCIL OF NEWBERRY COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

Section 1. Findings. As an incident to the adoption of this ordinance, the County Council of Newberry County (the “Council”), the governing body of Newberry County, South Carolina (the “County”), has made the following findings:

- (a) Pursuant to the Capital Project Sales Tax Act, codified as §4-10-300 *et. seq.*, Code of Laws of South Carolina, 1976, as amended (the “Act”) the Council may impose a one percent sales and use tax (the “Tax”), subject to a referendum, within the County for specific purposes and for a limited amount of time to collect a limited amount of money.
- (b) The Council is authorized pursuant to §4-10-320 of the Act to create a commission for the purpose of considering proposals for funding capital projects within the County and formulating a referendum question to appear on the ballot. Pursuant to a resolution adopted by the Council on August 19, 2015 the Newberry County Capital Project Sales Tax Commission (the “Commission”) was created for the purpose of considering proposals for funding capital projects and the formulation of a referendum question. Members of the Commission were appointed in accordance with the provisions of §4-10-320 of the Act.
- (c) The Commission has considered proposals for funding capital projects within the County and has approved and delivered to the Council a referendum question to appear on the ballot (the “Ballot”) for a referendum to be held in the County on

November 8, 2016 (the “Referendum”), which Ballot is attached to this Ordinance as Exhibit “A”. The Ballot sets forth certain projects and facilities (the “Projects”) and the estimated costs of the Projects; sets forth the maximum time for which the Tax shall be imposed; and provides that, subject to approval by the Referendum, general obligation bonds of the County (the “Bonds”) shall be issued to defray the costs of the Projects, all pursuant to §4-10-330 (D) of the Act.

- (d) The Council finds that the imposition of the Tax will serve a public purpose, provide funding for the design, engineering construction and improvement of the Projects, as well as facilitate economic development, promote public health and safety, promote desirable living conditions, and meet present and future needs of the County and its citizens.
- (e) The Council has determined to order the holding of the Referendum for the purpose of submitting to the qualified electors of the County the question of the imposition of the Tax and the issuance of the Bonds.
- (f) There is presently imposed in the County a sales and use tax pursuant to the Act and a referendum held in the County on November 2, 2010 (the “Prior Tax”). The Tax may not be imposed in the County until such time as imposition of the Prior Tax has terminated in accordance with the Act. The general obligation bonds of the County authorized in the referendum of November 2, 2010 and payable from the Prior Tax have been defeased and are no longer payable from the Prior Tax. Proceeds of the Prior Tax, except as required to complete projects approved in the referendum of November 2, 2010, shall be applied to defray the costs of the Projects or to pay debt service on the Bonds.

Section 2. Adoption of Defined Terms. All terms defined by capitalization in Section 1 of this Ordinance shall have the meanings so provided throughout the remainder of this Ordinance.

Section 3. Receipt of Referendum Question. The referendum question adopted and forwarded by the Commission has been received and is acknowledged by the Council. This referendum question has been included in the Ballot appearing at Exhibit “A” attached hereto.

Section 4. Imposition of Tax: Projects; Priority of Funding.

4.1 The Tax, as authorized by the Act, is hereby imposed in the County, subject to a favorable vote of the qualified electors voting in the Referendum.

4.2 The Tax, if approved by the Referendum, shall be imposed immediately upon the termination of the Prior Tax, and shall continue for seven years from the date of such termination in accordance with §4-10-340(A) of the Code.

4.3 The Newberry County Registration and Elections Commission (the “Election Authority”) shall certify not later than November 30, 2016 the results of the Referendum to the Council and, if such results are favorable to the imposition of the Tax, to the South Carolina Department of Revenue. The Council shall, by resolution, declare the results thereof.

4.4 The maximum principal amount of the Bonds to be issued pursuant to the Referendum shall not exceed \$19,800,000 excluding such premium, if any, named by the purchaser of the Bonds as a portion of the purchase price of the Bonds. The proceeds of the Tax shall be pledged to payment of the Bonds; however, earnings derived from the investment of the proceeds of the Tax, if any, shall not be so pledged and may be applied by the Council in its discretion to defray the costs of Projects or to pay debt service on the Bonds. Earnings derived from the investment of proceeds of the Bonds may be applied by the Council in its discretion to defray the costs of Projects or to pay debt service on the Bonds. Application of all such investment earnings shall be subject to the obligation of the County as issuer of the Bonds to rebate certain of such investment earnings to the United States Treasury pursuant to the provisions of §148(f) of the Internal Revenue Code of 1986, as amended, and the regulations pertaining thereto.

4.5 The maximum cost of the Projects to be funded from proceeds of the Bonds and investment earnings as described in Section 4.4 herein will not exceed \$19,800,000, except as to the funding of cost overruns, as authorized by §4-10-340(C)(1) of the Code and Section 4.6 herein. The maximum cost of all Projects will not exceed \$21,200,000, except as to the funding of cost overruns, as authorized by §4-10-340(C)(1) of the Code and Section 4.6 herein. The maximum amount of

proceeds of the Tax expected to be used to pay debt service on the Bonds is \$21,681,000; however, the Council recognizes that this amount is an estimate and is subject to fluctuations in interest rates.

4.6 So that the construction of many of the Projects can be commenced as soon as possible and in order to achieve the most economic and efficient use of proceeds of the Tax, the Commission, with the approval of Council, has determined that the Bonds should be issued to defray Project costs. The Projects, except as provided below, shall be funded in the order of priority shown below, it being the intent of Council that as many of the Projects as may be prudent, based upon expected Tax receipts and bond interest rates, should be funded simultaneously with the proceeds of the Bonds. The Council may consult bond counsel and financial advisory professionals prior to making such determination.

<u>Priority</u>	<u>Project Description</u>	<u>Cost</u>
1	800 MHz Emergency Services Radio System	\$7,400,000
2	City of Newberry - Recreational Complex Construction	4,075,000
3	County of Newberry - Newberry Museum	2,200,000
4	City of Newberry - Opera House HVAC Improvements	155,000
5	Town of Prosperity - Recreational Complex Improvements	770,000
6	Consolidated Fire District - Water Supply Improvement	1,000,000
7	Town of Whitmire - Town Hall/Police Department Remodel/Upgrades	1,000,000
8	Town of Pomaria - Old Pomaria School Building Renovation	655,000
9	Town of Little Mountain - Computer Center and Library Upgrades	245,000
10	Town of Silverstreet - Demolition of Old School Building/New Walking Track	700,000
11	Newberry County - Detention Center Repairs/Improvements	1,600,000
12	Newberry County Water & Sewer Authority - Mid-Carolina Commerce Park	1,400,000

Projects not funded with proceeds of the Bonds shall be funded sequentially in the priority listed above as funds become available therefor, such funds including earnings on investment of Bond proceeds, earnings on investment of Tax proceeds, and any Tax proceeds which remain available after sufficient funds for the payment of all then-remaining principal of and interest on the Bonds has been collected and set aside for such purpose. Notwithstanding any other provision of this ordinance, however, the Council expressly reserves the right by ordinance supplemental hereto to re-order the priority of Projects to lower the priority of any Project the construction of which has not commenced by the second anniversary of the issuance of the Bonds.

4.7 As provided in §4-10-340(C)(1) of the Code, Tax proceeds collected in excess of those amounts necessary to pay debt service on the Bonds and defray the cost of Projects at the amounts shown on the Ballot must be first applied, if necessary, to complete a Project for which the Tax was imposed, that is, to pay cost overruns on Projects. Tax proceeds available to pay cost overruns shall be distributed in the order of Priority shown above in Section 4.6, except as such priority is adjusted by the Council pursuant to Section 4.6, to complete Projects. Likewise, investment earnings collected in excess of those amounts necessary to pay debt service on the Bonds and defray the cost of Projects at the amounts shown on the Ballot will be distributed in the order of Priority shown above in Section 4.6 to complete Projects, subject to adjustment by the Council.

4.8 It is anticipated that additional funding may be required for certain of the Projects. The sources of that additional funding were set forth in presentations made to the Commission and include the following:

(a) The City of Newberry will contribute approximately \$1,300,000 from available funds of the City to defray a portion of the cost of its recreation facility Project.

(b) Newberry County will contribute approximately \$1,600,000 from available funds of the County to defray a portion of cost of the detention facility.

Section 5. Referendum.

5.1 The Ballot to be submitted to the electors of the County in the Referendum shall be as provided in Exhibit “A” hereto.

5.2 The Election Authority shall conduct the Referendum and publish notice of the Referendum in accordance with the Act. The form of the Notice of the Referendum shall be substantially in the form as attached to this Ordinance as Exhibit “B”, together with such changes as may be approved by the Election Authority to comply with the law of the State. The Election Authority is authorized to change any of the locations of precincts or polling places for the Referendum in accordance with the law of the State as deemed necessary or advisable. Appropriate changes are to be made to the Notice of the Referendum.

Section 6. Ordinance Forwarded to Election Authority. An executed copy of this Ordinance shall be forwarded to the Election Authority. The Election Authority is hereby requested:

- (a) To join in the action of the County in providing for the Notice of the Referendum in substantially the form contained herein;
- (b) To acknowledge and adopt the form of the Ballot;
- (c) To arrange for polling places for each precinct within the County;
- (d) To appoint Managers of Elections;
- (e) To provide a sufficient number of ballots or voting machines, as the case may be, for the Referendum;
- (f) To conduct the Referendum, receive the returns thereof, canvass such returns, declare the results thereof, and certify such results to the Council; and
- (g) To take other steps and prepare such other means as shall be necessary or required by law in order to properly conduct the Referendum.

Section 7. Effective Date. This Ordinance shall be effective upon third and final reading thereof.

ENACTED THIS 6th DAY OF JULY, 2016

COUNTY COUNCIL OF NEWBERRY COUNTY,
SOUTH CAROLINA

BY: _____
Henry H. Livingston, III, Chairman

[SEAL]

Attest:

Clerk to Council

First Reading: 6/1/2016

Second Reading: 6/15/2016

Public Hearing: 7/06/2016

Third Reading: 7/06/2016

FORM OF BALLOT

**OFFICIAL BALLOT, REFERENDUM
ONE PERCENT SALES AND USE TAX AND
\$19,800,000 GENERAL OBLIGATION BONDS
NEWBERRY COUNTY, SOUTH CAROLINA
November 8, 2016**

Precinct No. _____

Initials of Issuing Officer _____

**OFFICIAL BALLOT, REFERENDUM
ONE PERCENT SALES AND USE TAX AND
\$19,800,000 GENERAL OBLIGATION BONDS
NEWBERRY COUNTY, SOUTH CAROLINA
November 8, 2016**

Question

Must a special one percent sales and use tax be imposed in Newberry County for not more than seven years to raise the amounts specified for the following purposes:

<u>No.</u>	<u>Project Description</u>	<u>Cost</u>
1	800 MHz Emergency Services Radio System	\$7,400,000
2	City of Newberry - Recreational Complex Construction	4,075,000
3	County of Newberry - Newberry Museum	2,200,000
4	City of Newberry - Opera House HVAC Improvements	155,000
5	Town of Prosperity - Recreational Complex Improvements	770,000
6	Consolidated Fire District - Water Supply Improvement	1,000,000
7	Town of Whitmire - Town Hall/Police Department Remodel/Upgrades	1,000,000
8	Town of Pomaria - Old Pomaria School Building Renovation	655,000
9	Town of Little Mountain - Computer Center and Library Upgrades	245,000
10	Town of Silverstreet - Demolition of Old School Building/New Walking Track	700,000

11	Newberry County - Detention Center Repairs/Improvements	1,600,000
12	Newberry County Water & Sewer Authority - Mid-Carolina Commerce Park	1,400,000

and must the County Council of Newberry County be authorized to issue not exceeding \$19,800,000 principal amount of general obligation bonds of Newberry County, provided that the proceeds of such bonds shall be applied to defray the costs of the foregoing purposes, plus issuance costs, and provided further that in the event the sales and use tax to be imposed as stated herein is inadequate for the payment of such bonds, such bonds shall be payable from an ad valorem tax imposed on all taxable property in Newberry County?

Yes []

No []

INSTRUCTIONS TO VOTERS: If you are in favor of the question, touch the screen next to the word "Yes"; if you are opposed to the question, touch the screen next to the word "No."

* * * *

EXHIBIT “B”

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

NOTICE OF REFERENDUM
TO BE HELD ON TUESDAY
NOVEMBER 8, 2016

NOTICE IS HEREBY GIVEN that a Referendum will be held in Newberry County, South Carolina (the “County”), on November 8, 2016, for the purpose of submitting to all persons qualified to vote in the County, under the Constitution and laws of the State of South Carolina the following question:

Question

Must a special one percent sales and use tax be imposed in Newberry County for not more than seven years to raise the amounts specified for the following purposes:

<u>No.</u>	<u>Project Description</u>	<u>Cost</u>
1	800 MHz Emergency Services Radio System	\$7,400,000
2	City of Newberry - Recreational Complex Construction	4,075,000
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11	Newberry County - Detention Center Repairs/Improvements	1,600,000
12	Newberry County Water & Sewer Authority - Mid-Carolina Commerce Park	1,400,000

and must the County Council of Newberry County be authorized to issue not exceeding \$19,800,000 principal amount of general obligation bonds of Newberry County, provided that the proceeds of such bonds shall be applied to defray the costs of the foregoing purposes, plus issuance costs, and provided further that in the

event the sales and use tax to be imposed as stated herein is inadequate for the payment of such bonds, such bonds shall be payable from an ad valorem tax imposed on all taxable property in Newberry County?

The question is being submitted pursuant Title 4, Chapter 10, Article 3, Code of Laws of South Carolina, 1976 as amended, and an ordinance of the County Council of Newberry County enacted on _____, 2016. The referendum question includes both the imposition of a sales and use tax and the issuance of general obligation bonds. If a majority of the 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 Newberry County for not more than seven years immediately upon termination of a sales and use tax now imposed in the County pursuant to a referendum held on November 8, 2004, and the County Council of Newberry County will be authorized to issue not exceeding \$19,800,000 principal amount of general obligation bonds of Newberry County to defray the costs of the projects listed above and issuance costs. The principal receipts from the sales and use tax will be first applied to pay the debt service on such bonds, with any remaining amount available, along with investment earnings, to defray the costs of those purposes set forth in the ballot question.

Every person offering to vote in this referendum must be at least eighteen (18) years of age, must reside in the School District and must be duly registered on the books of registration for Lancaster County as an elector in the precinct in which he or she resides and offers to vote on or before the date on which said books of registration are closed for the Referendum, and must produce, upon presenting himself or herself to vote, a valid and current: (1) South Carolina driver's license, (2) other form of identification containing a photograph issued by the South Carolina Department of Motor Vehicles, (3) passport, (4) military identification containing a photograph issued by the federal government, or (5) South Carolina voter registration card containing a photograph of the voter. Persons who do not or cannot present valid and current identification as provided herein may cast a provisional ballot in accordance with Section 7-13-710, Code of Laws of South Carolina, 1976, as amended.

Any persons wishing to register to vote in the Referendum, if registering by mail, must have such registration postmarked not later than October 9, 2016, to the Newberry County Registration and Election

Commission, P. O. Box 147, Newberry, South Carolina 29108-0147, telephone (803) 321-2121, or, if registering to vote in person, must do so by no later than _____ p.m. on October ____, 2016.

Any such registered elector who has moved his or her place of residence within the County after the date on which said books of registration are closed for the Referendum, but before the date of the Referendum, shall be entitled to vote in his or her previous precinct of residence in the Referendum; provided, however, in case any registered elector shall have moved from one precinct in the County to another precinct in the County within thirty days prior to November 8, 2016, and shall have surrendered his registration certificate and has received a new certificate, such elector may vote in the precinct provided for by such new certificate. Persons who become of age during the 30 day period preceding the Referendum shall be entitled to register before the closing of the books if otherwise qualified.

Any person eligible to register to vote in the Referendum who has been discharged or separated from his service in the Armed Forces of the United States prior to November 8, 2016, and has returned home too late to register at the time when registration is required, is entitled to register for the purpose of voting in the Referendum after the discharge or separation from service, up to 5:00 p.m. on the day of the Referendum. This application for registration must be made at the office of the Newberry County Registration and Elections Commission, and if qualified, the person must be issued a registration notification stating the precinct in which he is entitled to vote and a certification to the managers of the precinct that he is entitled to vote and should be placed on the registration rolls of the precinct.

The polls shall be open from 7:00 a.m. until 7:00 p.m. at the polling places designated below and shall be open during these hours without intermission or adjournment. Appropriate vote recorders will be provided at the polling places for the casting of ballots on the aforesaid question. Managers of Election will be appointed by the Newberry County Registration and Elections Commission. The Managers of Election shall see that each person offering to vote takes the oath that he is qualified to vote at this election according to the Constitution of this State, and that he has not voted before in this election. The precincts within the County and locations of the several polling places for such Referendum are as follows:

<u>Precinct Name</u>	<u>Polling Place</u>	<u>Address</u>
Newberry Ward 1	Newberry Courthouse Annex	1309 College St Newberry SC 29108
Newberry Ward 2	Serenity Chapel	1109 Speers St Newberry SC 29108
Newberry Ward 3	Boundary Street School	1406 Boundary St Newberry SC 29108
Newberry Ward 4	St. Marks Catholic Church	928 Boundary St Newberry SC 29108
Newberry Ward 5	Mayer Memorial Church	1307 Drayton St Newberry SC 29108
Newberry Ward 6	Newberry Career Ctr./Hwy 219	3321 Main St Newberry SC 29108
Beth-Eden	Woodmen of The World Building	1420 Civitan Rd Newberry SC 29108
Bush River	Bush Rvr. Bush River School	9725 Bush River Rd Newberry SC 29108
Chappells	Chappells Fire Station	3218 SC Highway 39 Chappells SC 29037
Fairview	Fairview Fire Station	149 Seibert Rd Prosperity SC 29127
Hartford	Church of Jesus Christ LDS	2112 Glenn Street Ext Newberry SC 29108
Helena	Helena Community Center	902 Giff St Newberry SC 29108
Kinards Jalapa	Bush River Fire Station	5627 Bush River Rd Newberry SC 29108
Johnstone	Johnstone-Metropolitan Baptist Church	715 Shrine Club Rd Newberry SC 29108
Little Mountain	Little Mt. Fire Dept./Rescue Ctr.	219 N Boundary St Little Mountain SC 29075
Maybinton	Maybinton Fire Substation	296 Tyger River Rd Whitmire SC 29178
Midway	Mid Carolina Middle School	6794 US Highway 76 Prosperity SC 29127
Mt. Bethel Garmany	New National Guard Armory	275 Gen. Henderson Rd Newberry SC 29108
Consolidated # 5	Consolidated #5 / Fire Station	3464 SC Highway 34 Pomaria SC 29126

<u>Precinct Name</u>	<u>Polling Place</u>	<u>Address</u>
O'Neal	O'Neal Fire Station	1350 Ira Kinard Rd Prosperity SC 29127
Oakland	Newberry Housing Authority/Clara Wertz Gym	3600 Grant Ave Newberry SC 29108
Peak	Town Hall/Fire Dept. Complex	56 River St Peak SC 29122
Pomaria	Pomaria Recreation Ctr.	138 Folk St Pomaria SC 29126
Prosperity	Prosperity Fire Station	116 McNeary St Prosperity SC 29127
Silverstreet	Silverstreet Community Center	1233 Main St Silverstreet SC 29145
Stoney Hill	Stoney Hill Comm. Ctr.	3044 Stoney Hill Rd Prosperity SC 29127
St Philips Jolly St.	St Philips Fire Station	166 Mud Creek Rd Prosperity SC 29127
Wheeland	Wheeland Community Center	1128 Wheeland School Rd Little Mountain SC 29075
Whitmire City	Whitmire Fire Station	199 Gilliam St Whitmire SC 29178
Whitmire Outside	Whitmire Fire Station	199 Gilliam St Whitmire SC 29178
Barrier Free	Voter Registration Office	1872 Wilson Rd Newberry SC 29108

Voters who are blind, who are otherwise physically handicapped, or who are unable to read or write are entitled to assistance in casting their ballot. This assistance may be given by anyone the voter chooses except his employer, an agent of his employer, or an officer or agent of his union. The Managers of Election must be notified if assistance is needed. Voters who are unable to enter their polling place due to physical handicap or age may vote in the vehicle in which they drove, or were driven to the polls. When notified, the Managers will help voters effectuate this curbside voting provision. Registered voters may be eligible to vote by absentee ballot. Persons wishing more information concerning absentee balloting should contact the

Newberry County Registration and Elections Commission at (803) 321-2121. The process of examining the return-addressed envelopes containing absentee ballots will begin at 2:00 p.m. on November 8, 2016.

The Newberry County Registration and Elections Commission shall hold a hearing on Ballots challenged in the election on Thursday, November 10, 2016 at ____:00 a.m., at _____, Newberry, South Carolina

Chairman, Newberry County Council

Chair, Newberry County Registration and Elections Commission

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