

DORCHESTER COUNTY ORDINANCE NO. 2005- 03

AN ORDINANCE

**PURSUANT TO S.C. CODE §4-37-10, AN ORDINANCE TO CREATE THE DORCHESTER COUNTY SALES TAX TRANSPORTATION AUTHORITY; TO PROVIDE FOR ITS MEMBERSHIP AND APPOINTMENT; TO PROVIDE FOR ITS RIGHTS AND POWERS; AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, pursuant to Ordinance No. 2004-10 adopted August 16, 2004, Dorchester County Council, subject to approval by referendum, enacted an Ordinance imposing a sales and use tax not to exceed one-cent (1%) within Dorchester County for multiple transportation projects; and

**WHEREAS**, the referendum imposing the sales and use tax received a favorable vote of the qualified electors of Dorchester County in the General Election held November 2, 2004; and

**WHEREAS**, pursuant to S.C. Code § 4-37-10, Dorchester County Council is authorized by Ordinance to establish a Transportation Authority with all of the rights and powers described in § 4-37-20; and

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED**, by the County Council of Dorchester County, South Carolina, duly assembled and by the authority of the same as follows:

**SECTION 1. CREATION OF THE DORCHESTER COUNTY SALES TAX  
TRANSPORTATION AUTHORITY**

Dorchester County hereby establishes the Dorchester County Sales Tax Transportation Authority (hereinafter "Authority") pursuant to S.C. Code § 4-37-10(A).

**SECTION 2. MEMBERSHIP AND APPOINTMENT**

The Authority hereby created shall be governed by a Board composed of seven (7) members who shall be appointed as follows:

Each member of Dorchester County Council shall have one (1) appointment to the Board,

subject to the approval of a majority of Dorchester County Council. There shall be no requirement that an appointee be a resident of the council district of the Council Member making the appointment.

### **SECTION 3. TERM OF OFFICE**

The term of office of the appointees to the Board of the Authority shall be coterminous with the term of office of the Council Member making the appointment; provided, however, that the appointing Council Member reserves the right to remove his/her appointee during the term of office of the Appointee subject to the approval of a majority of Dorchester County Council.

### **SECTION 4. PROCUREMENT METHODS AND REQUIREMENTS**

The Authority must comply with Dorchester County ordinances or procedures governing competitive procurement. Further, when procuring the construction, maintenance, and repair of bridges, highways, and roads, the Authority must use the same procurement methods and apply the same procurement requirements used by and applied to the South Carolina Department of Transportation in the construction, maintenance and repair of bridges, highways and roads, including the provisions of S.C. Code § 12-27-1320, except that when applying § 12-27-1320, the contracting entity may meet the expenditures standards of § 12-27-1320 by either direct or indirect contracts. For the purposes of this Section, "contracting entity" includes a governmental body and a private entity with which a governmental body contracts for the construction, maintenance and repair of bridges, highways, and roads.

### **5. RIGHTS AND POWERS OF THE AUTHORITY**

The Board of the Authority has all of the rights and powers of a public body, politic and corporate of this State, including, without limitation, all of the rights and powers necessary or convenient to manage the business and affairs of the Authority and to take action as it may consider

advisable, necessary, or convenient in carrying out its powers, including, but not limited to, the following rights and powers:

1. To have perpetual succession;
2. To sue and be sued;
3. To adopt, use, and alter a seal;
4. To make and amend by-laws for regulation of its affairs consistent with the provisions of S.C. Code § 4-37-10, *et seq.*;
5. To acquire by gift, deed or easement, purchase, hold, use, improve, lease, mortgage, pledge, sell, transfer, and dispose of any property, real, personal, or mixed, or any interest in any property, or revenues of the Authority as security for notes, bonds, evidences of indebtedness, or other obligations of the Authority;
6. To borrow money, make and issue notes, bonds, and other evidences of indebtedness; to secure the payment of the obligations or any part by mortgage, lien, pledge, or deed of trust, on any of its property, contracts, franchises, or revenues;
7. To make contracts, including service contracts with a person, corporation, or partnership including, without limitation, the South Carolina Department of Transportation, to provide the facilities and services provided herein; and
8. Execute all instruments necessary or convenient for the carrying out of business.

The Board of the Authority, however, is not authorized to exercise the powers of eminent domain. It may, however, recommend to Dorchester County Council that property be acquired through eminent domain. Dorchester Council must determine if the property is to be acquired through eminent domain and, if so, to commence any eminent domain proceedings.

**SECTION 6. TERMINATION OF EXISTENCE OF THE AUTHORITY**

The Authority as created pursuant to this Ordinance shall terminate not later than twelve (12) months after the sales tax authorized by referendum held November 2, 2004, terminates.

**SECTION 7. SEVERABILITY**

If any section, phrase, sentence or portion of this Ordinance is, for any reason, held or deemed to be invalid or unconstitutional by any court of competent jurisdiction, then such section, phrase, sentence or portion shall be deemed separate, distinct and an independent provision and shall not affect the remaining portions thereof.

Adopted this 10<sup>th</sup> day of January, 2005.

COUNTY COUNCIL OF DORCHESTER COUNTY

By:   
Its Chairman

ATTEST:

  
Sandy Lawley, Clerk to Council

First Reading: November 22, 04

Second Reading: December 13, 04

Third & Final Reading: January 10, 05