

ORDINANCE NO. 2018- 21

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, IMPOSING A COUNTYWIDE LOCAL GOVERNMENT INFRASTRUCTURE SURTAX OF ONE PERCENT (1%) ON ALL AUTHORIZED TAXABLE TRANSACTIONS OCCURRING WITHIN COLLIER COUNTY, AS AUTHORIZED BY SECTION 212.055(2), FLORIDA STATUTES, EFFECTIVE BEGINNING JANUARY 1, 2019, FOR A PERIOD OF UP TO SEVEN (7) YEARS OR UNTIL THE AGGREGATE FUNDS OF \$490,000,000 ARE COLLECTED, WHICHEVER IS SOONER; PROVIDING THAT THE IMPOSITION OF THE SURTAX SHALL BE CONTINGENT ON APPROVAL AT A COUNTYWIDE REFERENDUM; PROVIDING FOR A WEBPAGE WHICH DETAILS THE PROPOSED PROJECTS FOR THE PUBLIC; PROVIDING FOR DISTRIBUTION OF SURTAX REVENUES AMONG THE COUNTY AND THE MUNICIPALITIES WITHIN THE COUNTY; PROVIDING FOR CITIZEN OVERSIGHT; PROVIDING BALLOT LANGUAGE AND DIRECTING THE SUPERVISOR OF ELECTIONS TO HOLD A COUNTYWIDE PRECINCT REFERENDUM ELECTION ON NOVEMBER 6, 2018.

WHEREAS, Section 212.055(2), Florida Statutes, authorizes the Collier County Board of County Commissioners (“Board”) to impose a 1.0 percent (1%) local government infrastructure surtax (“Surtax”) upon transactions occurring within Collier County (“County”) which are taxable under Chapter 212, Florida Statutes; and

WHEREAS, a 1.0 percent (1%) Surtax would, under current State sales tax rates, result in a one cent (1¢) Surtax on each one dollar (\$1.00) sale as specifically provided by law and will be applied to each fractional part of one dollar accordingly; and

WHEREAS, the Surtax differs from the transactions subject to the State sales tax in that the local option sales tax base applies only to the first \$5,000 of the purchase price of an item of taxable personal property while the State sales tax applies to the entire purchase price regardless of amount, pursuant to Section 212.054(2)(b)(1), Florida Statutes; and

WHEREAS, the Surtax does not apply to certain groceries, medical products and supplies, fuel, and other specifically identified goods and services listed in Section 212.08, Florida Statutes; and

WHEREAS, the funds derived from the imposition of the Surtax shall be distributed to the County and the municipalities of the County (“Municipalities”), as set forth in Section 218.62, Florida Statutes, if no interlocal agreement is entered into; and

WHEREAS, funds received from the Surtax authorized by Section 212.055(2), Florida Statutes, may be utilized by the County and Municipalities to finance, plan, construct, reconstruct, renovate and improve needed infrastructure, as defined in Section 212.055(2)(d), Florida Statutes; and

WHEREAS, the County and the Municipalities are presently without sufficient fiscal and monetary resources to adequately fund their infrastructure needs; and

WHEREAS, adequate public infrastructure facilities of the types herein described promote the safe, efficient and uninterrupted provision of numerous essential public services provided by the County and the Municipalities, including but not limited to roads, bridges, signals, sidewalks, parks, evacuation shelters, governmental facilities, including emergency services facilities; acquiring land and construction for workforce housing and career and technical training, veterans’ nursing home and expand mental health facilities; and

WHEREAS, a brief description of the projects to be funded is set forth in the ballot language contained in this Ordinance and a more specific list of projects to be funded is attached hereto as Exhibit A; and

WHEREAS, the County and the Municipalities shall establish a citizen oversight committee to provide for citizen review of the expenditure of Surtax proceeds.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Collier County, Florida, that:

SECTION ONE. Incorporation of Recitals.

The above recitals are true and correct and are hereby incorporated by reference.

SECTION TWO. Imposition of Local Government Infrastructure Surtax.

There is hereby imposed a one percent (1%) local government infrastructure surtax (“Surtax”) upon all authorized taxable transactions occurring within the County.

SECTION THREE. Administration, Collection and Distribution of Proceeds.

The Surtax shall be administered, collected, and enforced in accordance with the provisions of Section 212.054, Florida Statutes, and the rules promulgated by the Florida Department of Revenue. The proceeds of the Surtax shall be distributed by the Department of Revenue directly to the County and Municipalities, in accordance with Section 218.62, Florida Statutes.

SECTION FOUR. Referendum Election.

(a) The Surtax imposed in Section Two hereof shall not take effect unless and until approved by a majority of the electors of the County voting in a countywide precinct referendum election on the Surtax.

(b) The Collier County Supervisor of Elections is hereby directed to hold such countywide precinct referendum election on November 6, 2018.

(c) The Collier County Supervisor of Elections shall cause the following proposition to be placed on the ballot:

**COLLIER COUNTY AND MUNICIPAL INFRASTRUCTURE
ONE-CENT SALES SURTAX**

To enhance safety, mobility, and hurricane preparedness in Collier County and its cities by constructing, repairing, and maintaining roads, bridges, signals, sidewalks, parks, evacuation shelters, governmental and emergency services facilities; acquire land and support construction for workforce housing and career and technical training, veterans’ nursing home and expand mental health facilities; shall the County levy a one-cent sales surtax beginning January 1, 2019 and automatically ending December 31, 2025, with oversight by citizen committee?

FOR THE ONE-CENT SALES TAX

AGAINST THE ONE-CENT SALES TAX

SECTION FIVE. Advertisement and Webpage.

The Collier County Clerk of Court shall insure that notice of this referendum be advertised in accordance with the provisions of Section 100.342, Florida Statutes. Proof of publication shall be provided to the Chair of the Board. Upon adoption of this Ordinance, the County shall create a webpage available to the public on the County's main website which details the proposed projects to be funded by the Surtax, as well as the particulars regarding the imposition and collection of the Surtax.

SECTION SIX. Expiration Date; Survival of Certain Restricted Uses.

(a) *Sunset.* In all events, this Ordinance shall be in effect only through December 31, 2025. It shall sunset and expire thereafter, without further action by the Board and the electors, at which time it shall be deemed repealed and of no further force and effect, and the Surtax levied hereunder shall terminate. Alternatively, this Ordinance shall sunset on December 31st of any year during the term of this Ordinance in the event that the total aggregate distributions of Surtax proceeds equal or exceed the amount of \$490,000,000 at any time during that calendar year, in which event the Board shall take necessary action to repeal this Ordinance and notify the Florida Department of Revenue prior to the applicable deadline so that the Surtax will not continue for the following year.

(b) *Survival of restrictions on use of Surtax proceeds.* Notwithstanding the provisions of subsection (a) for the expiration and repeal of this Ordinance, so long as any Surtax proceeds shall remain unspent, the restrictions hereby imposed concerning the distribution and use of such Surtax proceeds as well as the proceeds of any borrowings payable from Surtax proceeds, and all interest and other investment earnings on either of them shall survive such expiration and repeal and shall be fully enforceable in a court of competent jurisdiction.

SECTION SEVEN. Infrastructure Surtax Citizen Oversight Committee.

(a) *Creation.* Upon the approval of the Surtax by the electors of Collier County, the Board shall hereby assemble an Infrastructure Surtax Citizen Oversight Committee ("Committee") to provide for citizen review of the expenditure of the Surtax proceeds by the County, as soon as

possible after the Surtax becomes effective, but not later than the date on which the funds are first expended. The Committee shall serve as an ad hoc advisory and reporting body to the County.

(b) *Composition.* The Committee shall be comprised of seven (7) members. There shall be one (1) member appointed from each County District, and two (2) at-large members. Upon confirmation that said individuals meet the requirements herein, the Board shall appoint said individuals to this Committee. Appointment of positions, unless otherwise stated herein, shall be governed by Collier County Ordinance No. 2001-55, as may be amended, or by its successor ordinance.

(c) *Membership Qualifications.* All members shall have the following qualifications:

- (1) Member shall be a resident of Collier County;
- (2) Member shall not be an elected official;
- (3) Member shall not be a current employee of any governmental body within Collier County;
- (4) Special consideration shall be given to nominees that have financial or business management backgrounds and experience; and
- (5) Member shall meet the qualifications set forth in Collier County Ordinance No. 2001-55, as may be amended or its successor ordinance.

(d) *Term.* The initial terms for the at-large seats shall be one year; the remainder of the at-large terms shall be for two years or until the Committee sunsets. The initial terms and all terms thereafter for each District seat shall be for two years or until the Committee sunsets. All members shall be eligible for reappointment upon the expiration of their term. Upon resignation or removal of a member from a seat, that seat will be filled for the remainder of its term.

(e) *Removal.* Removal of members from the Committee shall be in accordance with the provisions of Collier County Ordinance No. 2001-55, as it may be amended, or its successor ordinance.

(f) *Sunset.* The Committee shall sunset and terminate without further action by the Board within 2 months of the final expenditure of all of the Surtax proceeds collected by the County. At its final meeting after the Surtax proceeds have been expended, the Committee shall prepare a final report to the Board with its findings and recommendations.

(g) *Duties.* The Committee shall have the responsibility to review the expenditure of Surtax proceeds against the ballot referendum approved by the voters and this Ordinance. The Board may expend proceeds of the Surtax on projects not specifically stated herein or in the attached Exhibit A, so long as those projects (1) comply with the intent of the ballot language, (2) have a positive recommendation by this Committee, and (3) fall within the projects and categories identified. The Committee shall not recommend alternative projects, unless requested by the Board.

(h) *Officer; Meetings; Quorum; Rules of Procedure.*

(1) Annually the members of the Committee shall elect a chairperson and vice chairperson from among the members. The chairperson's and vice chairperson's terms in such positions shall be for one (1) year with eligibility for re-election by the members of the Committee.

(2) The Committee shall meet monthly, or as otherwise needed to fulfill their duties and responsibilities.

(3) The presence of at least five (5) members shall constitute a quorum of the Committee necessary to take action and transact business. In addition, an affirmative vote of a super majority (majority present plus one) shall be necessary in order to take official action. Furthermore, by simple majority vote, but never with less than 5 members present, the Committee shall adopt rules of procedure for its meetings, and thereafter shall be governed by its procedures, as amended from time to time.

(4) The Committee shall keep a written record of meetings, resolutions, findings and determinations. Copies of all Committee minutes, resolutions, reports and exhibits shall be submitted to the Board. The Committee shall submit an annual report of its findings and recommendations to the Board.

(i) *Reimbursement of Expenses.* Committee members shall receive no compensation for the performance of their duties, but shall be entitled to receive reimbursement for expenses reasonably incurred in the performance of their duties upon prior approval by the Board.

(j) *Duties of the County Manager's Office.* The County Manager's Office will provide such documentation, information, descriptions of procedures, secretarial support and general assistance to the Committee as may be necessary for the Committee to carry out its functions as set forth herein.

(k) The Committee, its members, and all its proceedings shall be governed by and comply with the provisions of the Florida Sunshine Law, Chapter 286, Florida Statutes, the Florida Public Records Law, Chapter 119, Florida Statutes, and the Florida Ethics Code, Chapter 112, Florida Statutes, and all other applicable local or state statutes, ordinances, or rules.

SECTION EIGHT. Conflict and Severability.

In the event this Ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any court of competent jurisdiction holds any phrase or portion of this Ordinance invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION NINE. Inclusion in The Code of Laws and Ordinances.

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

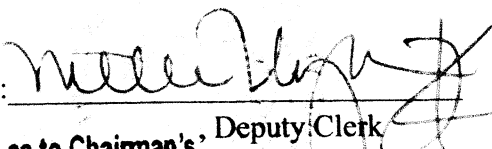
SECTION TEN. Effective Date.

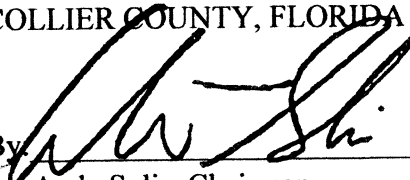
This Ordinance shall be effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 24th day of April, 2018.

ATTEST:
DWIGHT E. BROCK, Clerk

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: 
Deputy Clerk

By: 
Andy Solis, Chairman

Attest as to Chairman's
signature only.

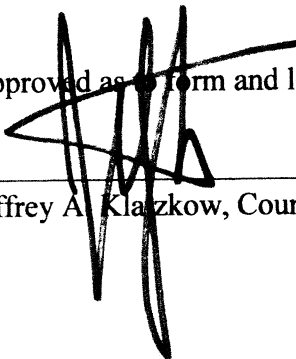
Approved as to form and legality:

Jeffrey A. Klazkow, County Attorney

Exhibit A

	Total Estimated Cost	Current Funding	Current Shortfall	7-Year Sales Tax
Transportation	\$289.0M	\$87.0M	\$202.0M	\$191.0M
Vanderbilt Beach Rd Extension - Collier Blvd to 8th/16th	\$100.0M	\$26.0M	\$74.0M	\$74.0M
Pine Ridge Rd, Livingston Rd	\$31.0M	\$8.0M	\$23.0M	\$23.0M
Bridge Replacements (11)	\$23.0M	\$16.0M	\$7.0M	\$7.0M
Randall Intersection	\$14.0M	\$7.0M	\$7.0M	\$7.0M
Airport Rd - widening from Vanderbilt to Immokalee	\$17.0M	\$13.0M	\$4.0M	\$4.0M
Triangle Blvd	\$6.0M		\$6.0M	\$6.0M
New Bridges - Golden Gate Estates Mobility (11)	\$88.0M	\$17.0M	\$71.0M	\$60.0M
Sidewalks	\$10.0M		\$10.0M	\$10.0M
Facilities & Capital Replacements	\$192.0M	\$43.0M	\$149.0M	\$139.0M
Forensic/Evidence Building	\$33.0M		\$33.0M	\$33.0M
Big Corkscrew Island Regional Park	\$60.0M	\$20.0M	\$40.0M	\$40.0M
DAS shelter Improvement/Replacement	\$6.0M		\$6.0M	\$6.0M
HVAC, Roofing, and Capital Equipment Replacements at Sheriff's & County facilities	\$62.0M	\$23.0M	\$39.0M	\$39.0M
Hurricane Resilience	\$25.0M		\$25.0M	\$15.0M
EMS Substations	\$6.0M		\$6.0M	\$6.0M
Community Priorities	\$100.0M		\$100.0M	\$90.0M
Career and Technical Training Center	\$15.0M		\$15.0M	\$15.0M
VA Nursing Home	\$40.0M		\$40.0M	\$30.0M
Workforce Housing Land Trust Fund	\$20.0M		\$20.0M	\$20.0M
Mental Health Facility	\$25.0M		\$25.0M	\$25.0M
Grand Total	\$581.0M	\$130.0M	\$451.0M	\$420.0M