




Interoffice Memorandum

April 24, 2024

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Byron W. Brooks, AICP, County Administrator 

SUBJECT: **May 7, 2024 Discussion Item**
Direction to the Supervisor of Elections to conduct the referendum on the proposed sales surtax for school construction, improvement, land acquisition, and technology implementation

The Orange County School Board approved a resolution on April 23, 2024, to renew the levy of the “half-cent” sales surtax for school construction, improvement, land acquisition, and technology implementation, subject to voter approval. The approved resolution was in the form attached hereto.

Section 7 of the School Board’s resolution requests that the Board of County Commissioners approve the November 5, 2024, date for the referendum election, and direct the Supervisor of Elections to place the question on the ballot for voter approval during the general election. Once the school board passes a resolution pursuant to section 212.055(6), Florida Statutes, levying a discretionary school capital-outlay surtax conditioned upon voter approval, this Board is required to place the question on the ballot.

The Board’s action does not constitute a decision in favor of the tax, but merely complies with the statutory mandate to transmit the question to the Supervisor of Elections. Specifically, section 212.055(6), Florida Statutes, provides that ballot question proposing the discretionary surtax “shall be placed on the ballot by the governing body of the county.”

ACTION REQUESTED: **Approval of the November 5, 2024, date for the referendum on the school sales surtax and authorization to direct the Supervisor of Elections to place the sales surtax question on the ballot and to conduct the referendum as part of the 2024 general election in accordance with state election laws.**

Attachment

c: Byron W. Brooks, County Administrator
Jeffrey J. Newton, County Attorney

JW/WE/ab

THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA

RESOLUTION NO. 2024-04-01

A RESOLUTION OF THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA CALLING FOR A REFERENDUM TO BE HELD ON NOVEMBER 5, 2024 FOR THE PURPOSE OF SUBMITTING TO THE DULY QUALIFIED ELECTORS OF ORANGE COUNTY, FLORIDA A QUESTION REGARDING THE CONTINUATION BY THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA OF THE DISCRETIONARY SALES SURTAX OF ONE-HALF CENT FOR THE PURPOSE OF FUNDING THE COSTS OF CONSTRUCTION, RECONSTRUCTION, AND IMPROVEMENTS OF SCHOOL FACILITIES AND CAMPUSES, LAND ACQUISITION, INCLUDING BOND INDEBTEDNESS, AND FUNDING THE COSTS OF RETROFITTING AND PROVIDING FOR TECHNOLOGY IMPLEMENTATION, WITH CONTINUED OVERSIGHT BY AN INDEPENDENT COMMITTEE; AUTHORIZING CERTAIN INCIDENTAL ACTIONS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, lack of funding within the School District of Orange County, Florida (the "District") for the costs of construction, reconstruction and improvement of new and existing public school facilities, and for the cost of providing and retrofitting schools for technology implementation, including hardware and software, became more acute in 2002; and

WHEREAS, the School Board of Orange County, Florida (the "School Board") determined that there was a need for construction of new school facilities, reconstruction and improvement of existing school facilities, installation of new computer technology and retrofitting of existing facilities for technology implementation; and

WHEREAS, Section 212.055(6), Florida Statutes, authorizes the imposition by school boards of a one-half cent sales surtax on all taxable transactions to fund capital outlay projects including the payment of bond indebtedness therefor and technology implementation, , subject to approval by the electors of the county voting in a referendum; and

WHEREAS, in August 2002, 59.3% of the electors of Orange County, approved a one-half cent sales surtax, with an effective date of January 1, 2003; and

WHEREAS, in August 2014, 64% of the electors of Orange County, approved the continuation of the one-half cent sales surtax, with an effective date of January 1, 2016; and

WHEREAS, as a result of that sales surtax at least one hundred thirty six (136) schools have been or will be reconstructed or improved; and

WHEREAS, sixty eight (68) new schools have been constructed since 2002, of which seven (7) were partially or fully funded by the sales surtax; and

WHEREAS, since 2014, the sales surtax has funded 100% of a capital renewal program providing additional system construction, reconstruction and improvements, thereby ensuring the continued efficient operation of schools; and

WHEREAS, that continued 2014 surtax is set to expire December 31, 2025; and

WHEREAS, since 2002, the revenues devoted to capital improvements from the Florida Legislature have decreased dramatically; and

WHEREAS, it is essential to student learning that school facilities be safe and secure and that safety and security improvements will be made as part of school construction, reconstruction or improvements of school facilities; and

WHEREAS, the condition and maintenance of school facilities should be equitable across the district; and

WHEREAS, recent construction costs have escalated at a faster pace than school impact fees and tax revenues; and

WHEREAS, the ability to increase school impact fees has been limited, resulting in impact fee rates that are no longer sufficient to keep pace with rapidly escalating construction costs; and

WHEREAS, growth in the housing market has continued to significantly increase the student population in Orange County; and

WHEREAS, additional new schools and classroom additions will be required in areas around Orange County to relieve overcrowding and reduce the need for portables due to anticipated growth trends; and

WHEREAS, seventy five (75) schools constructed, reconstructed, or improved since 2002 will need comprehensive construction, reconstruction or improvement due to age and/or growth by 2035; and

WHEREAS, a capital renewal program providing additional system construction, reconstruction or improvement will be required indefinitely to ensure the continued efficient operation of schools; and

WHEREAS, the periodic replacement of digital learning devices and supporting infrastructure hardware and software is needed to support technology implementation and digital learning; and

WHEREAS, the projected cost of construction for additional new schools, reconstruction or improvement existing school facilities and replacement of digital learning devices and supporting infrastructure needed through 2035 are estimated to exceed projected revenues without a sales surtax extension by more than \$4 billion; and

WHEREAS, the need for the construction of additional new schools, reconstruction and improvement of existing schools and replacement of digital learning devices and supporting infrastructure will continue indefinitely; and

WHEREAS, less than 50% of the sales tax is paid by Orange County residents; and

WHEREAS, such sales surtax will generate approximately \$350 million per year; and

WHEREAS, pursuant to Section 212.055(6)(b), Florida Statutes, sales surtax revenue must now be shared with eligible charter schools based on their proportionate share of the total school district enrollment; and

WHEREAS, attached to this Resolution is a plan (the "Plan") consistent with the provisions of Section 212.055(6)(c), Florida Statutes, for the use of the proceeds of levy and collection of the surtax for capital outlay and technology implementation;

NOW, THEREFORE, BE IT RESOLVED BY THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA THAT:

Section 1. Tax Levy. The existing sales surtax levied and imposed within Orange County as a discretionary sales surtax on all taxable transactions of 0.5 percent (one-half cent) pursuant to the provisions of Section 212.055(6), Florida Statutes, and Section 212.054, Florida Statutes, is hereby continued for another ten (10) years.

Section 2. Term of Levy. The surtax levy shall commence January 1, 2026. The surtax levy shall remain in full force and effect from and after January 1, 2026 and ending December 31, 2035, unless repealed or reduced prior to that time by resolution of the School Board, which repeal or reduction may be effectuated without referendum, so long as there are no bonds or other obligations of the School Board outstanding that are payable from the proceeds of such levy.

Section 3. Administration. The surtax levied hereby shall be collected, administered and paid to the School Board by the Department of Revenue pursuant to the terms of Section 212.054, Florida Statutes, and such other laws as may be applicable.

Section 4. Use of Revenues; Adoption of Plan. The proceeds of the levy and collection of the surtax and any interest accrued thereto shall be expended by the School Board in accordance with the Plan for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction or improvement of school facilities and campuses, including enhancement of security and safety at the various school facilities and campuses, which have a useful life expectancy of five (5) or more years, and any land acquisition, land improvement, design and engineering costs related thereto, including the making of lease payments under lease purchase agreements pursuant to Sections 1001.42 and 1013.15, Florida Statutes, and for the costs of providing technology implementation, including hardware and software as set forth in the Plan. Such proceeds and interest thereon may also be used for the purpose of servicing bond indebtedness to finance projects authorized above. Pursuant to Section 212.055(6)(b), Florida Statutes, the sales surtax revenue will also be shared with eligible charter schools based on their proportionate share of the total school district enrollment. A description of the capital outlay projects to be funded by the surtax is set forth in the Plan attached by reference in Exhibit A hereto, which is hereby adopted and made a part of this Resolution.

Section 5. Citizens' Construction Oversight and Value Engineering Committee. The existing Citizens' Construction Oversight and Value Engineering Committee ("COVE") shall continue to operate under the duly authorized bylaws and charter as approved by the School Board of Orange County, Florida for the

purpose of providing financial and construction oversight of the School Board’s capital outlay program which includes this Plan. COVE shall also have the power to authorize and/or commission audits of the capital outlay program, as necessary. COVE shall consist of not less than seven (7) members nominated by the Superintendent and confirmed by the School Board, who shall have expertise in the fields of finance, audit, construction, maintenance and planning. No member of COVE shall be an employee of the School Board, or of an enterprise doing business with the School Board, nor shall any such member vote on any contract between the School Board and any enterprise which employs a relative of such member. The role of COVE, in overseeing the implementation of the Plan, shall constitute an integral part of the Plan and shall not be subject to repeal prior to completion of the Plan.

Section 6. Operational Expenses. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses.

Section 7. Referendum. The School Board hereby calls that a referendum be held throughout Orange County, Florida, on the Tuesday following the first Monday of November, which is November 5, 2024, for the purpose of submitting to the duly-qualified electors of Orange County the question of continuing the existing sales surtax. The School Board hereby requests that the Orange County Board of County Commissioners (i) approve the date for the referendum and (ii) direct the Orange County Supervisor of Elections to place on the ballot the statement(s) contained in the “Notice of Election” set forth in Section 8, herein, and to conduct said election pursuant to the provisions of Florida’s Election Code.

Section 8. Notice of Election. In accordance with Florida law, not less than thirty (30) days’ notice of said election shall be given by publication both in English and Spanish in a newspaper of general circulation throughout the District. Such publication shall be made at least twice, once in the fifth week and once in the third week prior to the week of November 5, which notice shall be substantially in the following form together with such additional information as the Supervisor of Elections of Orange County, Florida shall require:

NOTICE OF ELECTION

TUESDAY, NOVEMBER 5, 2024

IN

ORANGE COUNTY, FLORIDA

NOTICE IS HEREBY GIVEN THAT AN ELECTION HAS BEEN CALLED BY THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA FROM 7:00 A.M. UNTIL 7:00 P.M. ON TUESDAY, NOVEMBER 5, 2024, AT WHICH TIME THERE SHALL BE SUBMITTED TO THE DULY QUALIFIED ELECTORS OF ORANGE COUNTY, FLORIDA THE FOLLOWING QUESTION:

ONE-HALF CENT SALES SURTAX FOR SCHOOL FACILITIES CONSTRUCTION, IMPROVEMENT, LAND ACQUISITION, AND TECHNOLOGY IMPLEMENTATION

SHALL THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA CONTINUE THE ONE-HALF CENT SALES SURTAX TO FUND THE CONSTRUCTION, RECONSTRUCTION AND IMPROVEMENT OF SCHOOL FACILITIES, AND LAND ACQUISITION, LAND IMPROVEMENT, AND DESIGN AND ENGINEERING COSTS, INCLUDING ANY BOND INDEBTEDNESS, AND THE COST OF RETROFITTING AND PROVIDING TECHNOLOGY IMPLEMENTATION, BEGINNING JANUARY 1, 2026 AND ENDING DECEMBER 31, 2035, SHARED PROPORTIONATELY WITH CHARTER SCHOOLS AS LEGALLY REQUIRED, WITH CONTINUED OVERSIGHT BY AN INDEPENDENT CITIZENS' COMMITTEE?

____ FOR THE ONE-HALF CENT TAX

____ AGAINST THE ONE-HALF CENT TAX

RESOLUTION NO. 2024-04-01 ADOPTED BY THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA ON APRIL 23, 2024 PROVIDES FOR THE CONTINUATION OF THE ONE-HALF CENT SALES TAX PER DOLLAR ON ALL TAXABLE TRANSACTIONS WITHIN ORANGE COUNTY. THE PROCEEDS OF THE SALES SURTAX SHALL BE EXPENDED BY THE SCHOOL BOARD FOR FIXED CAPITAL EXPENDITURES OR FIXED CAPITAL COSTS ASSOCIATED WITH THE CONSTRUCTION, RECONSTRUCTION, OR IMPROVEMENT OF SCHOOL FACILITIES AND CAMPUSES WHICH HAVE A USEFUL LIFE EXPECTANCY OF FIVE (5) OR MORE YEARS, AND ANY LAND ACQUISITION, LAND IMPROVEMENT, AND DESIGN AND ENGINEERING COSTS RELATED THERETO, AS WELL AS THE COST OF RETROFITTING AND PROVIDING FOR TECHNOLOGY IMPLEMENTATION , FOR THE VARIOUS SITES WITHIN THE DISTRICT (THE "PLAN"), WITH OVERSIGHT BY THE INDEPENDENT CITIZENS' CONSTRUCTION OVERSIGHT AND VALUE ENGINEERING ("COVE") COMMITTEE. SUCH PROCEEDS AND INTEREST THEREON MAY ALSO BE USED FOR THE PURPOSE OF MAKING LEASE PAYMENTS UNDER LEASE PURCHASE AGREEMENTS AND/OR SERVICING BOND INDEBTEDNESS TO FINANCE PROJECTS AUTHORIZED BY THE PLAN. THE PLAN FOR USE OF THE PROCEEDS OF SUCH SURTAX IS SET FORTH IN EXHIBIT "A" TO THE RESOLUTION.

IN ACCORDANCE WITH THE CONSTITUTION AND THE ELECTION LAWS OF THE STATE OF FLORIDA, ALL DULY QUALIFIED ELECTORS OF ORANGE COUNTY, FLORIDA SHALL BE ENTITLED TO VOTE IN THE ELECTION TO WHICH THIS NOTICE PERTAINS.

THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA SHALL BE AUTHORIZED TO LEVY THE TAX COVERED BY THE QUESTION STATED ABOVE IF THE QUESTION SHALL BE APPROVED BY VOTE OF A MAJORITY OF THE DULY QUALIFIED ELECTORS OF ORANGE COUNTY, FLORIDA VOTING THEREON.

Section 9. Official Ballot. The official ballot to be used in the election to be held on Tuesday, November 5, 2024, shall be in English and Spanish and shall be in full compliance with the laws of the State of Florida and shall be substantially in the following form:

OFFICIAL BALLOT

ONE-HALF CENT SALES SURTAX FOR SCHOOL FACILITIES CONSTRUCTION,
IMPROVEMENT, LAND ACQUISITION, AND TECHNOLOGY
IMPLEMENTATION

SHALL THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA CONTINUE
THE ONE-HALF CENT SALES SURTAX TO FUND THE CONSTRUCTION,
RECONSTRUCTION AND IMPROVEMENT OF SCHOOL FACILITIES, AND
LAND ACQUISITION, LAND IMPROVEMENT AND DESIGN AND
ENGINEERING COSTS, INCLUDING ANY BOND INDEBTEDNESS, AND THE
COST OF RETROFITTING AND PROVIDING TECHNOLOGY
IMPLEMENTATION, BEGINNING JANUARY 1, 2026 AND ENDING
DECEMBER 31, 2035, SHARED PROPORTIONATELY WITH CHARTER
SCHOOLS AS LEGALLY REQUIRED, WITH CONTINUED OVERSIGHT BY AN
INDEPENDENT CITIZENS' COMMITTEE?

____ FOR THE ONE-HALF CENT TAX
____ AGAINST THE ONE-HALF CENT TAX

If a majority of the ballots cast at such election shall be "FOR THE ONE-HALF CENT TAX," the levy of such tax shall be approved and said surtax shall be levied as provided by law.

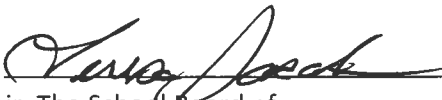
Section 10. Statutory References. All statutory references herein shall be to said statutes as they exist on the date of adoption of this Resolution and as they may be from time to time amended or renumbered, , as well as by future legislation, except to the extend contractual commitments would preclude application of a subsequent statutory revision or repeal.

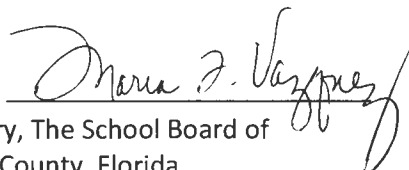
Section 11. Severability. It is declared to be the intent of the School Board that, if any section, subsequent, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 12. Conflict. Any resolution or part thereof in conflict with this Resolution or any part hereof is hereby repealed to the extent of the conflict.

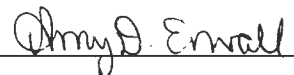
Section 13. Effective Date. Sections 1 through 6 of this Resolution shall be effective upon approval by a majority of votes cast by qualified electors in the referendum provided for herein and the remaining sections of this Resolution shall be effective immediately upon its adoption.

Adopted this Tuesday, April 30, 2024.

By: 
Chair, The School Board of
Orange County, Florida [SEAL]

ATTEST: 
Secretary, The School Board of
Orange County, Florida

Approved as to form and legality.



School Board Attorney

EXHIBIT A

Plan for Use of Sales Tax for Capital Outlay Program.

1. Revenues from the sales tax generated pursuant to Section 212.055, Florida Statutes, will fund:
 - a. Construction, reconstruction, or improvement of any existing school facilities, including improvements for safety and security, including equipment, hardware and software;
 - b. Construction of new schools and expansion of existing schools as needed, including improvements for safety and security, site acquisition and subsequent capital renewal and reconstruction;
 - c. Technology implementation to include replacement of digital learning devices and supporting technology infrastructure and software.
 - d. Any bond indebtedness or other capital obligations associated with any capital outlay project completed with funds from the sales tax.
2. The scope and timing of projects will be periodically determined by the School Board after consideration of the following objective criteria: a thorough, detailed assessment of facility condition; the age of the facility; current educational program requirements; safety, security and technology needs; and school capacity needs.
3. A copy of the most recent assessment of OCPS school facilities, as considered by The School Board of Orange County, Florida will be available on the OCPS website.
4. The Citizens' Construction Oversight and Value Engineering ("COVE") Committee will continue to provide oversight of all projects throughout the term of the sales surtax. The COVE Committee will continue to have the authority to authorize and/or commission audits of the capital outlay program, as necessary.