

|                                      |   |                                |
|--------------------------------------|---|--------------------------------|
| STATE OF SOUTH CAROLINA              | ) | IN THE COURT OF COMMON PLEAS   |
|                                      | ) | FOR THE NINTH JUDICIAL CIRCUIT |
| COUNTY OF CHARLESTON                 | ) |                                |
|                                      | ) |                                |
|                                      | ) | <b>SUMMONS</b>                 |
| Mary Edna Fraser; Glenda L. Miller;  | ) |                                |
| South Carolina Coastal Conservation  | ) |                                |
| League,                              | ) | Case No. _____                 |
|                                      | ) |                                |
| Plaintiffs,                          | ) |                                |
|                                      | ) |                                |
| v.                                   | ) |                                |
|                                      | ) |                                |
| Charleston County; Charleston County | ) |                                |
| Council,                             | ) |                                |
|                                      | ) |                                |
| Defendants.                          | ) |                                |
| _____                                | ) |                                |

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

|                            |                                    |
|----------------------------|------------------------------------|
| Charleston, South Carolina | <u>s/ Christopher K. DeScherer</u> |
|                            | Attorney for Plaintiff             |
| Dated: July 30, 2024       |                                    |
| Address:                   | Southern Environmental Law Center  |
|                            | 525 East Bay Street, Suite 200     |
|                            | Charleston, SC 29403               |

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|                                      | ) | FOR THE NINTH JUDICIAL CIRCUIT |
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|                                      | ) | <b>COMPLAINT</b>               |
| Mary Edna Fraser; Glenda L. Miller;  | ) |                                |
| South Carolina Coastal Conservation  | ) |                                |
| League,                              | ) | Case No. _____                 |
|                                      | ) |                                |
| Plaintiffs,                          | ) |                                |
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| v.                                   | ) |                                |
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| Charleston County; Charleston County | ) |                                |
| Council,                             | ) |                                |
|                                      | ) |                                |
| Defendants.                          | ) |                                |
| _____                                | ) |                                |

### **INTRODUCTION**

1. Mary Edna Fraser, Glenda L. Miller, and the South Carolina Coastal Conservation League (“Plaintiffs”) challenge a transportation sales tax ordinance, Ordinance #2302 (“the Ordinance”), passed by Defendant Charleston County Council (“Council”) on July 23, 2024. The Ordinance includes referendum language to seek voter approval during the upcoming November election to impose a half-cent transportation sales tax.

2. The proposed tax will raise \$5.4 billion over its 25-year period. Despite the cost to residents and the large sum of money sought by the County, the County Council has failed to draft an ordinance and referendum that complies with state constitutional and statutory law, provide the public with adequate disclosure of how the tax will be used, or provide voters with a meaningful ability to make an informed decision on the referendum questions.

3. The transportation sales tax approved by Charleston County Council on July 23, 2024, fails to comply with multiple state law requirements for sales tax ordinances and referenda, including S.C. Code Ann. § 4-37-30 et seq., S.C. Const. Art. X § 14(4), and general common law

principles guiding fair elections.

4. First, the enabling ordinance fails to list the estimated capital costs of each project to be funded by the tax as required by S.C. Code Ann. § 4-37-30(A)(1)(b). Second, the ballot language fails to provide voters with separate questions for separate purposes of the tax as required by S.C. Code Ann. § 4-37-30 et seq. and general principles of South Carolina election law. Third, the referendum violates general principles of South Carolina election law by failing to provide information about the County's plans to prioritize the Mark Clark Extension and dedicate a large proportion of the sales tax funds to the Extension project. Finally, the County's request for voter approval to issue bonds fails to comply with S.C. Const. Art. X, § 14(4) and other laws governing and authorizing the issuance of municipal bonds.

5. The referendum's significant non-compliance with legal requirements necessitates this Court's intervention.

### **JURISDICTION AND VENUE**

6. S.C. Code Ann. § 15-53-30 provides that any person whose rights, status, or other legal relations are affected by a contract, statute, or ordinance may have determined any question regarding construction or validity and obtain a declaration of rights status or other legal relations.

7. Plaintiffs seek a declaratory judgment under S.C. Code Ann. § 15-53-30 and Rule 57, SCRPC, to resolve one or more actual cases and controversies between and among the parties to this case.

8. This Honorable Court has subject matter and personal jurisdiction over the parties to this action.

9. Venue is proper in Charleston County in that the questions, actions, or controversies at issue in this case, including the transportation sales tax ordinance and referendum, arise in

Charleston County.

10. S.C. Code Ann. § 7-13-355 requires a county to submit any questions in a referendum that will be held during the general election to the county election commission by noon on August 15. Based on information and belief, the commission will approve all questions proposed for the ballot during its meeting on August 21. Once the commission approves the final ballot, it will send it to a national printer on or around September 1. Cedzo Aff., at ¶ 21.

11. These issues are ripe for this Court's determination because, among other things, the County has passed the challenged ordinance and referendum language and plans to request voter approval of the sales tax in the upcoming November election. Ballots will soon be printed with the referendum language, and thus, deciding the lawfulness of this language requires timely review by this Court.

### **PARTIES AND STANDING**

12. Plaintiffs Mary Edna Fraser and Glenda Miller are citizens, voters, and taxpayers in Charleston County, South Carolina. Fraser Aff., at ¶ 2–4; Miller Aff., at ¶ 2–4.

13. Plaintiff South Carolina Coastal Conservation League (“the Conservation League”) is a non-profit corporation in good standing, organized, and existing under South Carolina law. Cedzo Aff., at ¶ 3.

14. Plaintiffs have constitutional, public importance, taxpayer, and associational standing to seek and obtain the declaratory and other relief sought herein.

15. The Conservation League is a non-profit organization representing thousands of members who are citizens, residents, and taxpayers in Charleston County and throughout South Carolina. Cedzo Aff., at ¶ 2. The League and its supporters are committed to, among other things, improved connectivity of existing roadways, safety improvements, public transit, drainage

facilities and flood control, bicycle lanes, and Greenbelt-funded conservation initiatives. Accomplishing these objectives requires that local governments act transparently according to South Carolina law. *Cedzo Aff.*, at ¶ 5, 8.

16. Given the preceding, the Conservation League and its members have a direct, concrete, and particularized interest in the outcome of this litigation.

17. One or more Conservation League members are Charleston County taxpayers who will vote on the upcoming half-cent sales tax referendum. *Cedzo Aff.*, at ¶ 6.

18. Plaintiffs Mary Edna Fraser and Glenda Miller are Charleston County taxpayers who will vote in the upcoming half-cent sales tax referendum. *Fraser Aff.*, at 3, 4; *Miller Aff.*, at ¶ 3, 4.

19. Plaintiffs Mary Edna Fraser and Glenda Miller are entitled to standing based on their status as taxpayers.

20. Plaintiffs have standing due to the great public importance of the issues that this civil action raises, that are capable of being repeated, and regarding which judicial guidance is required. The failure of the Ordinance and accompanying referendum language to comply with South Carolina law results in a lack of transparency, which will impair the ability of Plaintiffs and other voters to make meaningful and informed decisions about their support or opposition to the sales tax. Moreover, by combining several projects into a single vote and forcing voters who may support one project to vote the same way on another project listed in the same ballot question impairs Plaintiffs' right to vote, is clearly unfair to voters, and is not conducive to free and untrammelled expression of public sentiment. *Fraser Aff.*, at ¶ 7, 8; *Miller Aff.*, at ¶ 7, 8. A declaration from this Court is needed to redress these injuries to Plaintiffs.

21. Defendant Charleston County, South Carolina ("the County" or "Charleston

County”) is a county government and body politic created under and subject to the laws of South Carolina.

22. Charleston County Council is a nine-member elected body tasked with making policy decisions for the County.

### **LEGAL BACKGROUND**

23. S.C. Code Ann. § 4-37-30 et seq. grants counties the authority to enact a sales tax to fund transportation-related projects, not exceeding one percent.

24. Before levying a proposed transportation sales tax, a county must pass an ordinance and obtain voter approval through a referendum. § 4-37-30(A)(2).

25. The transportation sales tax statute places specific requirements on a county enacting a transportation sales tax. These statutory requirements guide the contents of an enacting ordinance, the contents of the ballot referendum, and how sales tax proceeds may be allocated and spent.

26. The ordinance must specify the projects for which the proceeds of the tax are to be used, the maximum time for which the tax may be imposed, the estimated capital cost of the projects to be funded by the tax, and the principal amount of bonds to be supported by the tax, and the anticipated year the tax will end. S.C. Code § 4-37-30 (A)(1).

27. The referendum must include “[a] separate question” “for each purpose” of the tax. S.C. Code § 4-37-30 (A)(3). This question must read substantially as follows:

I approve a special sales and use tax in the amount of (fractional amount of one percent) (one percent) to be imposed in (county) for not more than (time) to fund the following project or projects:

Project (1) for \_\_\_\_\_ \$ \_\_\_\_\_

Yes \_\_\_\_

No \_\_\_\_

Project (2), etc.

Id.

28. After the ordinance is passed, the statute requires the county election commission to “publish the date and purpose of the referendum once a week for four consecutive weeks immediately preceding the date of the referendum in a newspaper of general circulation in the jurisdiction.” S.C. Code § 4-37-30 (A)(2).

29. The statute further requires “[a] public hearing [to] be conducted at least fourteen days before the referendum after publication of a notice setting forth the date, time, and location of the public hearing.” Id.

30. Section 4-37-30(3) also authorizes a county to include in the referendum a question on the authorization of general obligation bonds under the exemption provided in S.C. Const. Art. X, § 14(6). The question must include what the bonding will be used for and must read substantially as follows:

I approve the issuance of not exceeding \$\_\_\_\_\_ of general obligation bonds of \_\_\_\_\_ County, maturing over a period not to exceed \_\_\_\_ years to fund the \_\_\_\_\_ project or projects.

Yes \_\_\_\_

No \_\_\_\_

Id.

31. In Ziegler v. Dorchester County, the Supreme Court of South Carolina held that the general law of the State requires the “separation of distinct county bond propositions into different referendum questions.” 426 S.C. 615, 622 (2019).

32. S.C. Const. Art. X, § 14(4) authorizes counties to incur bonded indebtedness for a “public purpose” that is also a “corporate purpose.”

33. S.C. Code Ann. § 7-1-40, which applies to all elections in South Carolina, provides that the “form of ballot in an election on the issuance of bonds ... shall be a statement of the question or questions” and a ballot must permit the voter to vote “In favor of the question” or “Opposed to the question.”

34. Multiple Attorney General Opinions emphasize that a question on a ballot referendum must be phrased to not “confuse or mislead voters.” Op. S.C. Att’y Gen., Sept. 30, 2016, 2016 WL 5820153, at \*2, attached as Exhibit 1. The purpose of a referendum “must be stated with sufficient certainty to inform and not mislead voters as to the object in view.” Op. S.C. Att’y Gen., Sept. 13, 2004, 2004 WL 2052167, at \*4, attached as Exhibit 2. Omissions of material purposes may result in an unlawfully misleading referendum. Exhibit 1, at \*3 (“[A referendum] ought to be free from any misleading tendency, whether of amplification, **of omission**, or of fallacy.”) (emphasis added) (citing Ex parte Tipton, 229 S.C. 471, 93 S.E.2d 640 (1956)). In sum, a referendum may not fail to inform voters of the proposed project adequately, and “... the county must sufficiently identify and describe the projects for which the proceeds of the tax will be used for the public to make an informed decision in the referendum.” Exhibit 2, at \*3 (outlining general requirements for tax referenda).

### **STATEMENT OF FACTS**

#### **A. Mark Clark Extension Project**

35. The Mark Clark Expressway, or Interstate-526, is an interstate in Charleston County that runs from West Ashley to Mount Pleasant.

36. For decades now, Charleston County has attempted to expand the expressway by building 9.5 miles of new highway on James Island and Johns Island (the “Extension” or “Extension project”), despite public opposition, an exorbitant and continually growing cost, and funding challenges making the Mark Clark Extension infeasible.

37. The Extension project would increase congestion, exacerbate flooding problems, contribute to Charleston's rampant development pressures, and destroy communities and natural resources along its path.

38. The Extension is estimated to cost around \$2.4 billion to complete. Exhibit 3, at 6. The County has stated that it will be responsible for \$1.83 billion of that cost, representing around 36 percent of the \$5 billion allocated to transportation-related projects in the current proposed tax. However, the cost of the Extension has already increased exponentially. In 2019, the Extension was only estimated to cost between \$725 million and \$752 million, but its cost has increased \$1.5 billion in only five years. The proportional share of sales tax funds allocated to the Extension will thus continue to increase.

39. Given the Extension's exorbitant cost, unsupported traffic benefits, and harmful impacts, it has faced public opposition and funding barriers for more than a decade.

40. The County is planning to include a referendum on the November 2024 ballot to impose a half-cent transportation sales tax to fund the Extension.

#### **B. Prior Transportation Sales Taxes**

41. Charleston County enacted its first transportation sales tax in 2002.

42. The tax was challenged, and in 2003, the South Carolina Supreme Court overturned the results of a 2002 referendum, holding that the County drafted the ballot language in a way that "appear[ed] calculated to persuade and ultimately mislead voters into voting in favor of the tax." Duoan v. Charleston Cnty. Council, 357 S.C. 601, 612, 594 S.E.2d 261, 268 (2003).

43. The County again imposed a half-cent transportation sales tax in 2004. The 2004 tax was enacted for the maximum 25-year period. Exhibit 4. A sales tax levied under § 4-37-30 terminates either upon the expiration of the term specified for imposition or once the county has "raised revenues sufficient to provide the greater of either the cost of the project or projects as

approved in the referendum or the cost to amortize all debts related to the approved projects.” S.C. Code Ann. § 4-37-30(5)(a)-(b).

44. Accordingly, the 2004 tax will automatically expire in 2029; however, the County estimates it will collect sufficient revenues to terminate the tax as early as 2027.

45. In 2016, the County passed another half-cent sales tax. Like the 2002 tax, the 2016 tax faced legal challenges due to the County’s lack of transparency with voters about what their tax dollars would fund.

46. Before the 2016 election, the County Council repeatedly and publicly promised voters that the sales tax would not be used to fund the Mark Clark Extension. *Cedzo Aff.*, at ¶ 12. These statements were widely publicized—for example, Council Chair, Herbert Sass, wrote an op-ed article in the *Post & Courier* stating that no revenue from the 2016 tax would fund the Extension. *Cedzo Aff.*, at ¶ 12. Neither the 2016 ordinance nor the referendum mentioned the Extension project.

47. Despite these promises, in 2019, the County pledged money from the 2016 tax to move the Extension project forward. Plaintiff Conservation League challenged the County’s use of funds for the Extension. *Cedzo Aff.*, at ¶ 13. The South Carolina Court of Appeals ultimately declined to decide the merits of the case and dismissed it as untimely, holding that the challenge to the County’s use of funds was an election challenge that should have been filed no later than the Wednesday following the certification of the vote. See S.C. Coastal Conservation League v. Charleston Cnty., 442 S.C. 409, 899 S.E.2d 609 (S.C. Ct. App. 2024).

48. The 2016 sales tax was enacted for a maximum 25-year term and will not expire until 2041 unless all the revenues are raised sooner.

### **C. Proposed New Transportation Sales Tax**

49. The County is now asking Charleston residents to fund the Extension project by

imposing a new half-cent transportation sales tax to replace the 2004 sales tax when it expires. The 2004 sales tax will not expire until 2027 at the earliest. Cedzo Aff., at ¶ 11.

50. To adopt this new transportation sales tax, the County will place a referendum on the November 2024 ballot for voters' consideration.

51. The Ordinance identifies the Mark Clark Extension as the only priority project of the new sales tax.

52. In March 2024, Charleston County provided a public comment period for a proposed half-cent transportation sales tax to replace the 2004 half-cent sales tax. Plaintiff Conservation League submitted comments during this period. Cedzo Aff., at ¶ 14, 15.

53. On June 4, the Council conducted a first reading of the new half-cent sales tax. However, the Council only voted on a proposed list of projects to be funded by the tax and did not publish or vote on the draft ordinance or referendum language.

54. On or around June 12, the Council posted a draft of the Ordinance on its website. Cedzo Aff., at ¶ 18.

55. On June 18, the Council voted to pass the draft Ordinance through its second reading. Following the June 18 public meeting, the County Council recessed. Cedzo Aff., at ¶ 19.

56. On July 23, 2024, Council approved and enacted the Ordinance, including the November ballot's referendum language. The Ordinance was thus passed on July 23, subject to voter approval in a referendum that will be held during the upcoming November 5, 2024, election. The Ordinance allocates no more than \$4,968,000,000 of the proceeds from the tax for the financing "the costs of highways, roads, streets, bridges, and other transportation-related projects facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County." This category of projects is hereinafter referred to as "transportation-related projects."

Included in the broad category of transportation-related projects, Section 2.4(i) of the Ordinance lists the Mark Clark Extension as a “priority project.” The County also specifies that the following projects are included under the transportation-related project allocation of funding:

Rivers Avenue Mobility Improvements, Northbridge Bicycle Pedestrian Improvements, Mall Drive Improvements, South US 17 Corridor Improvements from Dobbin Road to Main Road, Glenn McConnell Overpass at Magwood Drive, Ashley River Road Corridor Improvements from Bees Ferry Road to Old Parsonage Road, US 17 / SC 61 Exit Ramp Improvements, Maybank Highway Corridor Improvements from Bohicket Road to River Road, Maybank Highway Corridor Improvements from River Road to Stono River Bridge, Folly Road Bicycle Pedestrian Improvements including Sol Legare Road, Long Point Road Corridor Improvements from Whipple Road to US 17, Darrell Creek Trail Realignment, 2016 Sales and Use Tax Carryover Projects, Annual Allocation continuation: Resurfacing, Bike/Pedestrian Facilities, Local Paving, Intersection Improvements, and Rural Roads. Exhibit 5, at 3.

57. Additionally, the Ordinance allocates at most \$432,000,000 to finance the costs of greenbelts. While greenbelts are not defined by statute, they are commonly described as “a belt of parkways or farmlands that encircles a community.” Duoan, 594 S.E.2d, at 265 n.4.

58. The Ordinance does not disclose the estimated capital costs of each project.

59. The Ordinance does not include information on what the general obligation bonds will be used for. Section 2.2.3 only provides that “[t]he estimated principal amount of initial authorization of bonds to be issued to pay costs of the projects and to be paid by a portion of the Sales and Use Tax is \$1,000,000,000.”

60. Section 4 of the Ordinance also provides the referendum questions that will be included on the November ballot. The referendum sets forth two questions to voters:

#### QUESTION 1

I approve a special sales and use tax in the amount of one-half (½) of one percent to be imposed in Charleston County for not more than twenty-five (25) years, or until a total of \$5,400,000,000 in resulting revenue has been collected, whichever occurs first. The sales tax proceeds will be used to fund the following projects:

Project (1) For financing the costs of highways, roads, streets, bridges, and other transportation-related projects facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County or jointly operated by the County and other governmental entities. \$4,968,000,000.

Project (2) For financing the costs of greenbelts. \$432,000,000.

YES \_\_\_\_\_

NO \_\_\_\_\_

Instructions to Voters: All qualified electors desiring to vote in favor of levying the special sales and use tax shall vote "YES;" and

All qualified electors opposed to levying the special sales and use tax shall vote "NO."

### QUESTION 2

I approve the issuance of not exceeding \$1,000,000,000 of general obligation bonds of Charleston County, payable from the special sales and use tax described in Question 1 above, maturing over a period not to exceed twenty-five (25) years, to fund completion of projects from among the categories described in Question 1 above.

YES \_\_\_\_\_

NO \_\_\_\_\_

Instructions to Voters: All qualified electors desiring to vote in favor of the issuance of bonds for the stated purposes shall vote "YES;" and

All qualified electors opposed to the issuance of bonds for the stated purposes shall vote "NO."

61. The referendum language does not provide separate opportunities to approve or disapprove the several distinct project purposes.

62. The referendum fails to inform voters of the County's intent to prioritize the construction of the Extension using the tax proceeds. In fact, it fails to mention the Extension project at all. It also fails to include information on what the general obligation bonds will be used for.

63. Attached, as Exhibit 6, is an example of how the County could have drafted the ordinance and referendum in a way that complies with South Carolina law.

64. Based on information and belief, the County must send the referendum language to the Charleston County Board of Elections (the “Board”) by noon on August 15. Cedzo Aff., at ¶ 21. The Board will convene on August 21 and determine what the November 2024 ballot will include. Id. On or around September 1, the Board will send the ballot to a printing service to prepare and print ballots. Id.

### **FIRST CLAIM FOR RELIEF**

#### **(The Ordinance Fails to List Estimated Capital Costs of Each Project)**

65. Plaintiffs incorporate by reference all preceding paragraphs.

66. S.C. Code Ann. § 4-37-30(A)(1)(b) requires the enabling ordinance of a transportation sales tax to include the “the estimated capital cost of the project or projects to be funded in whole or in part from proceeds of the tax and the principal amount of bonds to be supported by the tax.”

67. While the statute allows a referendum to group projects by purpose, § 4-37-30(A)(3), the statute does not state that capital costs listed in the ordinance may be grouped by purpose. §§ 4-37-30(A)(1)(b), (A)(3). See also Coastal Conservation League v. Charleston Cnty., 442 S.C. 409, 415, 899 S.E.2d 609, 612 (S.C. Ct. App. 2024) (“Each enabling ordinance must also identify the anticipated cost and timeline for completion of the project or projects.”).

68. Charleston County’s ordinance violates these statutory requirements because it does not list the estimated cost of any project, including the Mark Clark Extension, despite listing the Extension as a priority project. Instead, it only allocates funding between transportation-related projects and greenbelts.

## SECOND CLAIM FOR RELIEF

### (The Referendum Fails to Provide Separate Questions for Separate Purposes)

69. Plaintiffs incorporate by reference all preceding paragraphs.

70. S.C. Code Ann. § 4-37-30(A)(3) et seq. explicitly instruct counties on the format and content of ballot questions for sales tax referenda. Specifically, the statute provides that “[a] separate question must be included on the referendum ballot for each purpose which purpose may, as determined by the governing body of a county, be set forth as a single question relating to several of the projects. . . .”

71. The sample language included in Section 4-37-30(A)(3), which referenda must “substantially follow[,]” provides that the referendum must include separate votes for distinct projects.

72. A 2004 Attorney General Opinion (“the 2004 Opinion”), attached hereto as Exhibit 2, confirms that S.C. Code Ann. § 4-37-30(A)(3) does not authorize a county to combine unrelated projects into a single vote. Exhibit 2, at \*8. The Opinion explains that Section 4-37-30 “d[oes] not authorize several unrelated projects to be rolled into a single vote” and that such a tactic would “constitute a form of **bobtailing**” . . . “in which voters interested in voting for or against one project would be required to vote the same way on another project which is combined with it.” Exhibit 2, at \*10–11 (emphasis added).

73. Section 4 of the Ordinance passed by Charleston County Council contains the referendum language to be included on the November ballot. Question 1 of the referendum asks voters the following:

I approve a special sales and use tax in the amount of one-half (½) of one percent to be imposed in Charleston County for not more than twenty-five (25) years, or until a total of \$5,400,000,000 in resulting revenue has been collected, whichever occurs first. The sales tax proceeds will be used to fund the following projects:

Project (1) For financing the costs of highways, roads, streets, bridges, and other transportation-related projects facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County or jointly operated by the County and other governmental entities. \$4,968,000,000.

Project (2) For financing the costs of greenbelts. \$432,000,000.

YES \_\_\_\_

NO \_\_\_\_

74. Despite listing distinct purposes, voters are only provided one opportunity to vote yes or no.

75. Greenbelts are a distinct purposethat require a separate vote.

76. Bicycle and pedestrian improvements are a distinct set of purposes that require a separate vote.

77. Mass transit is a distinct purpose that requires a separate vote.

78. Local road improvements are a distinct purposethat require a separate vote.

79. Last, according to the County's own description of the project, the Mark Clark Extension is a *regional* improvement project. Thus, it is a distinct purposethat requires a separate vote. The Extension, therefore, qualifies as a different purpose for the tax that requires a separate question.

80. By lumping multiple distinct project purposesinto one question, the County's ballot question violates S.C. Code Ann. § 4-37-30(A)(3) and forces voters who may support one purposeto vote the same way on another purposelisted in the same ballot question. Fraser Aff., at ¶ 7; Miller Aff., at ¶ 7. The Council is fully aware of the all-or-nothing choice it is posing to voters. It drafted the ballot intentionally to force such a Hobson's Choice. For example, Councilmember Honeycutt said in April 2024 when asked about including separate questions for distinct project

purposes that “[t]his is an all or nothing. If folks want their greenbelts, if they want interim improvements, if they want allocation funding for improvements to sidewalks and intersections, it’s all or nothing.” Exhibit 7, at 21; Charleston County Council, 4/18/2024, at 52:07, YouTube (Apr. 18, 2024), <https://www.youtube.com/live/TdNkzEInUEI?si=-vHBKVtETTNZAA3J>.

### **THIRD CLAIM FOR RELIEF**

#### **(The Referendum Misleads Voters)**

81. Plaintiffs incorporate by reference all preceding paragraphs.

82. Referenda must be drafted to adequately inform voters about what they are voting for or against.

83. The Ordinance lists the Mark Clark Extension as a “priority” project among the funding allocated to transportation-related projects. The County’s share of the \$2.4 billion project would require using 36 percent of the \$5 billion allocated by the referendum to transportation-related projects, a percentage that is likely to increase.

84. In public meetings, the County has expressed its plan to use almost all the bonds in the referendum to fund the Mark Clark Extension. *Cedzo Aff.*, at ¶ 16.

85. The referendum, however, fails to inform voters of the County’s plan to prioritize the Extension. Instead, Question 1 only asks whether voters approve a sales tax to fund general transportation-related purposes.

86. Question 2 only informs voters about the amount of bonds to be issued but fails to mention what projects the bonds will fund. The Ordinance does not clarify the County’s intention to use all authorized bonds to finance the Mark Clark Extension.

87. The referendum misleads voters by failing to inform them that the Mark Clark Extension is a priority project to be funded by the tax and omitting any mention of the Extension. This omission fails to provide the material facts necessary for an informed election. *Fraser Aff.*, at

¶ 8; Miller Aff., at ¶ 7.

88. The generalized language in both Question 1 and Question 2 of the referendum does not provide sufficient information to voters about what the tax proceeds will fund or for what projects the County plans to issue bonds. As a result, voters cannot make an informed decision about their support or opposition to the sales tax.

89. For these reasons, the County's referendum language thus violates general principles of South Carolina election law.

#### **FOURTH CLAIM FOR RELIEF**

##### **(The Referendum Language Violates South Carolina Law on Municipal Bonds)**

90. Plaintiffs incorporate by reference all preceding paragraphs.

91. Article X, subsection 14(4) of the South Carolina Constitution authorizes political subdivisions, such as counties, to incur general obligation bonded indebtedness for a "public purpose" that is also a "corporate purpose." S.C. Const. art. X, § 14(4). Title 7 of the South Carolina Code applies to all elections in South Carolina. S.C. Code Ann. § 7-1-40 (1976). Section 7-13-400 provides, "[t]he form of ballot in an election on the issuance of bonds . . . shall be a statement of the question or questions" and must permit the voter to vote "In favor of the question" or "Opposed to the question." S.C. Code Ann. § 7-13-400 (1976).

92. When several distinct and independent propositions for the issuing of bonds by a municipality are submitted to the qualified voters of the town or city, provision must be made in the submission for a separate vote upon each. They cannot be lawfully combined as a single question." Ziegler, 828 S.E.2d, at 221.

If there are two or more separate and distinct propositions to be voted on, each proposition should be stated separately and distinctly, so that a voter may declare his or her opinion as to each matter separately . . . Elections are invalid where held under such restrictions as to prevent the voter from casting his or her individual and intelligent vote on the object or objects sought to be attained. The

object of the rule preventing the submission of several and distinct propositions to the people united as one in such a manner as to compel the voter to reject or accept all, is to prevent rejection of popular or necessary propositions that are joined with other measures that are not so popular or necessary. . . . This may be done on a single ballot, but the ballot must state each proposition separately, so that the voter may be able to express his or her will with reference to each question. Ziegler, 828 S.E.2d at 221-22, citing 15 Eugene McQuillin, *The Law of Municipal Corporations* § 40:9 (2016).

93. The sales tax referendum seeks voter approval of one billion dollars in bonds.

94. Upon information and belief, the County intends to use these bonds almost entirely to fund the Mark Clark Extension, with a minimal share used to fund carryover projects. *Cedzo Aff.*, at ¶ 16.

95. Question 2 of the referendum provides voters with the following vote:

I approve the issuance of not exceeding \$1,000,000,000 of general obligation bonds of Charleston County, payable from the special sales and use tax described in Question 1 above, maturing over a period not to exceed twenty-five (25) years, to fund completion of projects from among the categories described in Question 1 above.

YES \_\_\_\_\_

NO \_\_\_\_\_

96. Question 2 only provides one opportunity to vote on bonding for “projects from among the categories described in Question 1 above.” Yet, as alleged above in Paragraphs 72–78, Question 1 contains only a general list of several distinct project types. The ballot question thus combines several bond propositions into a single referendum question in violation of the South Carolina constitution and statute. S.C. Const. Art. X, § 14(4), and S.C. Code Ann. § 7-1-40, Ziegler, 828 S.E.2d at 221-22.

97. The County must provide separate questions for separate bonding purposes.

98. For these reasons, the County’s bonding language violates South Carolina law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court grant the declaratory, injunctive, and other relief requested and grant such other, further, or different relief as may be deemed just and proper.

Plaintiffs respectfully request that the Court:

99. Declare that Charleston County Council's transportation sales tax ordinance violates S.C. Code Ann. § 4-37-30.

100. Declare that Charleston County Council's transportation sales tax referendum language violates S.C. Code Ann. § 4-37-30.

101. Declare that Charleston County Council's transportation sales tax referendum language violates general principles of state law.

102. Declare that Charleston County Council's transportation sales tax referendum language violates the South Carolina Constitution.

103. Enjoin Charleston County Council from including the challenge transportation sales tax referendum language on the November 2024 ballot.

104. Award Plaintiffs all other injunctive and equitable relief as necessary and appropriate.

Respectfully submitted this 30th day of July 2024.

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# Exhibit 1

September 30, 2016 Attorney General Opinion



ALAN WILSON  
ATTORNEY GENERAL

September 30, 2016

The Honorable Paul Thurmond, Member  
South Carolina Senate, District No. 41  
P.O. Box 142  
Columbia, SC 29202

Dear Senator Thurmond:

Attorney General Alan Wilson has referred your letter dated September 8, 2016 to the Opinions section for a response. The following is this Office's understanding of your question and our opinion based on that understanding.

**Issue (as quoted from your letter):**

*I am writing to ask you to provide us as soon as possible an Attorney General Opinion about the legality of the wording of a bond referendum Dorchester County Council has voted to hold in the general election to be held on November 8, 2016. [ ] As shown in the ordinance dated 7/18/16 attached as Exhibit #1, Dorchester County Council has voted to hold a referendum on November 8, 2016, on whether Dorchester County should issue bonds for TWO expressly stated different purposes and amounts (i.e., \$30 million for libraries, \$13 million parks) but pursuant to only ONE question. ... This Ordinance cites as authority for this referendum Article X, Section 14, of the South Carolina Constitution, and the County Bond Act, S.C. Code Section 4-15-10 to 4-15-180. Neither of those authorities appears to state expressly whether a referendum question to be voted on as a prerequisite for this issuance of bonds pursuant to these authorities may contain more than one purpose or item in a question to be voted on, or whether there must be a separate question voted on for each purpose or item. However, both authorities refer to the "purpose" of an approved bond in the singular and not in the plural, thereby perhaps evidencing the intent to require a separate vote for each specific different purpose for which the bonds are issued.*

*For example, Article X, Section 14(4) states that "[g]eneral obligation debt may be incurred only for a purpose which is a public purpose and which is a corporate purpose of the applicable political subdivision" (emphasis added). S.C. Code Section 4-15-20 states that "the term 'authorized purpose' shall mean any purpose for which the particular county might, under the applicable constitutional provisions, issue bonds or levy taxes" (emphasis added). Section 4-15-30(A) states that "[t]he authorities of a county may issue general obligation bonds of the county to defray the cost of any authorized purpose ... if: (1) the election required by this chapter as a condition precedent to the issuance of bonds is favorable ... (emphasis added)."*

*Taxpayers questioning the legality of combining these two different items into one referendum question appear to believe that each question should stand on its own merits and not affect or cause a favorable or unfavorable vote on the other. Further, some taxpayers express fear that if these two items can be combined into one referendum question, multiple other unrelated items, perhaps without limit,*

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*could be combined into one referendum question, each affecting or even determining the outcome of the vote on the other items and rendering meaningless a decision about each item on its individual merits. They argue that if more than one purpose were allowed in a question to be voted on in the referendum, the law would have read that election approval must be for authorized purposes [plural] and not for an authorized purpose [singular]. Again, they fear that allowing two items in one question in a referendum to justify the issuance of bonds for two different purposes would be a precedent for allowing an unlimited number of items to be combined into one question in a referendum, and do not think the Constitution or the Legislature intended to give County Council the authority to combine multiple separate requests for bond issuance authority into one referendum question.*

*Please let us know whether it is legal to combine both of the above stated requests of authorization to issue bonds – for libraries and for parks – into one referendum question or if a separate referendum question must be stated and voted on for each of the two separate purposes.*

#### **Law/Analysis:**

As you reference in your letter, the South Carolina Constitution Article X, § 14 authorizes political subdivisions, including a county, to “incur bonded indebtedness in such manner and upon such terms and conditions as the General Assembly shall prescribe by general law within the limitations set forth in this section and Section 12 of this article.” S.C. Const. art. X, § 14(2). Section 14 goes on to authorize indebtedness as general obligation debt or from a “revenue-producing project or from a special source as provided in subsection (10) of this section.” *Id.* It is our understanding the bonds referenced in your letter would be incurred by a county as general obligation debt. Regarding general obligation debt, § 14 of the Constitution defines it as “any indebtedness of the political subdivision which shall be secured in whole or in part by a pledge of its full faith, credit and taxing power.” S.C. Const. art. X, § 14(3). Furthermore, as you mention in your letter, our Constitution specifies that general obligation debt “may be incurred only for a purpose which is a public purpose and which is a corporate purpose of the applicable political subdivision.” S.C. Const. art. X, § 14(4) (emphasis added). As you point in your opinion request “purpose” is singular here, as opposed to other statutes such as the Capital Project Sales Tax Act (S.C. Code § 4-10-300 *et seq.*) which authorize a referendum “for a specific purpose or purposes.” S.C. Code § 4-10-310; *Op. S.C. Att’y Gen.*, 2004 WL 1182081 (S.C.A.G. May 20, 2004).<sup>1</sup> Moreover, South Carolina Code § 7-13-400 specifies the form for the ballot for the issuance of bonds. The form uses the language “in favor of the question or issue (as the case may be)” and “opposed to the question or issue (as the case may be).” The legislative intent from the plain language of the ballot has each “question” or “issue” listed separately when multiple questions or issues are submitted. S.C. Code § 7-13-400.<sup>2</sup>

This Office has previously opined regarding bond referenda. *See, e.g., Op. S.C. Att’y Gen.*, 2009 WL 2844866 (S.C.A.G. August 19, 2009). In one such opinion we were asked whether a bond could be used

<sup>1</sup> *See also* S.C. Code § 4-37-20 *et seq.* authorizing a sales and use tax for transportation facilities. The statute authorizes a referendum for the “project or projects for which the proceeds of the tax are to be used.” S.C. Code § 4-37-30 (emphasis added).

<sup>2</sup> While we note prior opinions by this Office have referenced a June 18, 1994 opinion stating “the effect of the referendum question is to limit the use of the funds for the purposes set forth” in that question, we were not able to find such an opinion, nor we were able to find any authority for interpreting the plain language of the statute any way other than “purpose” in the singular. *See, e.g., Op. S.C. Att’y Gen.*, 2003 WL 22050874, at \*2 (S.C.A.G. Aug. 22, 2003).

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for “purposes other than those described in the bond referendum” pursuant to the School Bond Act. Id. In that opinion we stated, among other things, that:

“a ballot referendum may not confuse or mislead the voter.” Op. S.C. Atty. Gen. May 8, 2003. We explained in detail, in an opinion issued in 2003, the general requirements in this regard:

The general test applied by our Supreme Court as to whether a particular referendum is upheld or set aside is whether “when viewed as a whole, [the referendum] ... would likely mislead the average voter.” Lowery v. Bright, 234 S.C. 279, 107 S.E.2d 769 (1959). It is the purpose of a bond referendum to “determine the will of the voters upon the assumption of a public debt to the amount of and for the object proposed.” Fairfax County Taxpayers Alliance v. Bd. of County Supervisors of Fairfax, 202 Va. 462, 117 S.E.2d 753 (1961). The general purpose of the debt “must be stated with sufficient certainty to inform and not mislead voters as to the object in view . . . .” The painstaking details of the proposed work or improvements, of course, need not be set out in the ballot. Id.

In Tipton v. Smith, et al., our Supreme Court articulated the general standard for legal sufficiency of a referendum. Quoting with approval the Massachusetts case, In re Opinion of Justices, 271 Mass. 582, 171 N.E. 294, 297, 69 A.L.R., the Court stated that the referendum

... must be complete enough to convey an intelligible idea of the scope and import of the proposed law. It ought not to be clouded by undue detail, nor yet so abbreviated as not to be readily comprehensible. It ought to be free from any misleading tendency, whether of amplification, of omission, or of fallacy. It must contain no partisan coloring. It must in every particular be fair to the voter to the end and that the intelligent and enlightened judgment may be exercised by the ordinary person in deciding how to mark the ballot.

93 S.E.2d at 642. In the Tipton case, the Court found that the ballot in question was materially misleading and thus declared the election invalid. See also, Heinitsh v. Floyd, 130 S.C. 434, 126 S.E. 336, 337 [“To give effect to the [wording of the ballot] would be to approve the submission of constitutional amendments under forms which would procure their adoption by deceit.”].

Id. However, we noted that the determination of whether a particular bond referendum is misleading is a factual determination that only a court can decide. Id.

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Op. S.C. Att'y Gen., 2009 WL 2844866, at \*4 (S.C.A.G. Aug. 19, 2009).<sup>3</sup>

Let us, therefore, examine bond referenda generally. Traditionally, bonds must fulfill their statutory purpose and otherwise comply with their governing statutory. See, e.g., Watson v. Harmon, 280 S.C. 214, 312 S.E.2d 8 (Ct. App. 1984). Our State Court of Appeals stated in one opinion that:

If a bond is given pursuant to a statutory requirement, the bond is construed with reference to the statute and the intent of the statute will govern. *Rogers v. U.S. Fidelity and Guaranty Co.*, 225 S.C. 298, 81 S.E.2d 896 (1954). Furthermore,

[w]hile a bond is ordinarily purely a contract which, when privately given without any qualifying laws, is to be strictly construed and not extended beyond the scope of the obligation according to its express terms, a statutory bond to the public given for the observance of a law is to be read, construed, and enforced in connection with, and according to, the statute pursuant to which it is given, and to be interpreted according to the purpose and meaning of the legislative enactment. The provisions of the statute pursuant to which a bond is given are to be read into the bond and considered a part of it.... *It is essential that the principal to a statutory bond be a party thereto, while the person in whose behalf a statutory undertaking is executed need not become a party to the instrument.*

12 Am.Jur.2d *Bonds* § 2, 479 (1964) [emphasis added]. *See also id.* § 26, 495-96; *Kimbrell v. Heffner*, 163 S.C. 35, 161 S.E. 175, 177 (1931). "When a bond is given in compliance with the provisions of a statute, the Court will hold liberally the wording and terms of the bond to carry out the statutory purpose." *Pickens County v. Love*, 171 S.C. 235, 250, 171 S.E. 799 (1933).

Watson v. Harmon, 280 S.C. 214, 217–18, 312 S.E.2d 8, 10–11 (Ct. App. 1984). We also note this concept of limiting bonds to a single purpose is generally practiced, and McQuillin states concerning bonds:

If there are two or more separate and distinct propositions to be voted on, each proposition should be stated separately and distinctly, so that a voter may declare his or her opinion as to each matter separately, since several propositions cannot be united in one submission to the voters so as to call for one assenting or dissenting vote on all the propositions.<sup>5</sup>

Elections are invalid where held under such restrictions as to prevent the voter from casting his or her individual and intelligent vote on the object or objects sought to be attained.<sup>6</sup> The object of the rule preventing the submission of several

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<sup>3</sup> Fairfax County Taxpayers Alliance v. Bd. of County Supervisors of Fairfax, 202 Va. 462, 117 S.E.2d 753 (1961) was cited by the South Carolina Supreme Court in Sadler v. Lyle, 254 S.E. 535, 176 S.E.2d 290, 295 (1970). See Op. S.C. Att'y Gen., 2003 WL 23138213 (S.C.A.G. December 23, 2003). See also W.J. Douan v. Charleston County Council, 357 S.C. 601, 594 S.E.2d 261 (2003) (our State Supreme Court held, among other things, that the ballot did not conform to the statutory mandate to the extent that it affected the outcome of the election).

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and distinct propositions to the people united as one in such a manner as to compel the voter to reject or accept all, is to prevent rejection of popular or necessary propositions that are joined with other measures that are not so popular or necessary.<sup>7</sup> However, unless otherwise provided, it is proper to submit a number of propositions or questions at one time, providing the ordinance specifies each separate question or proposition as such, and provision is made by which the voters are given an opportunity to vote on each specific proposition or question independent of the other questions submitted at the same time. This may be done on a single ballot, but the ballot must state each proposition separately, so that the voter may be able to express his or her will with reference to each question.<sup>8</sup> For example, a dual question of: (1) increase of debt limit; and (2) bonding after increase of debt limit, both for a stated purpose, may be submitted on the ballot at one election, if the form of the ballot permits such propositions to be voted on separately.<sup>9</sup>

...  
 There is considerable difference of judicial opinion as to whether the submission of the question concerning the issuance of bonds for the “purchase” or “erection,” or practically equivalent words, of waterworks or the like, combines two or more propositions in a single question so as to be invalid. Some courts hold that such a submission is improper, states two propositions, and renders the election void,<sup>33</sup> but the weight of authority is to the contrary.<sup>34</sup>

The presumption arises that the acting municipal authorities in all required steps kept within the law, and one who raises the question of invalidity of anything done has the burden of demonstration.<sup>35</sup>

However, an election need not be invalidated despite a violation of the single-purpose rule, unless fraud has been perpetrated or corruption or coercion practiced to a degree to have affected the result.<sup>36</sup> A violation of the single-purpose rule does not render bonds invalid per se.<sup>37</sup>

15 McQuillin Mun. Corp. § 40:9 (3d ed.) (citing Wood v. Ross, 85 S.C. 309, 67 S.E.449 (1910); McDaniel v. Bristol, 160 S.C. 408, 158 S.E. 804 (1931)).<sup>4</sup> Moreover regarding two or more propositions, it states:

Applying these rules, mandamus to compel an issuance of bonds has been denied where the approval of the electorate was not had,<sup>6</sup> where the notice of election was insufficient,<sup>7</sup> where the order for an election was insufficient,<sup>8</sup> where the election was irregularly held,<sup>9</sup> and where two or more propositions were voted on as one.<sup>10</sup>

15 McQuillin Mun. Corp. § 43:142 (3d ed.) (citing Johnson v. Roddey, 83 S.C. 462, 65 S.E. 626 (1909)).<sup>5</sup> Moreover, as far back as 1909 when our State Supreme Court decided Ross v. Lipscomb, 83 S.C. 136, 65 S.E. 451 (1909), it denied a mayor a writ of mandamus requiring bonds for lights, waterworks and a sewer system. The case opined the election notice stated that the bonds “shall be issued to extend the

<sup>4</sup> Please read McQuillin for the full text and for all cites listed therein.

<sup>5</sup> Please see Footnote #4.

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electrical light plant or waterworks in the town of Gaffney or to secure additional water supply for said town.” Id. at 454. Our State Supreme Court stated in Ross that:

The intention of the Legislature was that there should be separate and distinct statements as to the amount of the bonds for electric lights and waterworks and as to the amount of those for establishing a sewerage system, .... But, even if the manner in which the different propositions were submitted to the voters is considered apart from the statute, the same result would follow.

In the well-considered opinion in the case of Rea v. City of La Fayette, 130 Ga. 707, 61 S. E. 707, it was ruled that, when several distinct and independent propositions for the issuing of bonds by a municipality are submitted to the qualified voters of the town or city, provision should be made in the submission for a separate vote upon each. They cannot be lawfully combined as a single question. ... Mr. Chief Justice Fish in delivering the opinion of the court used this language: “There may be in a given community such a strong sentiment in favor of incurring a public debt for a particular purpose—for instance, as providing adequate and suitable accommodations for the public schools—that by combining a proposition of this popular character with one to create a public debt for a wholly different purpose, which would not, as an independent measure, commend itself to the unbiased judgment of the voters, the unpopular proposition may obtain the requisite number of votes to insure its adoption. On the other hand, the sentiment against the last-mentioned proposition might be so strong as to cause the voters to defeat the one in favor of the public schools, although, if standing alone, it would have received their hearty support. To present both propositions in a single submission, thus rendering the success of the one dependent upon the success of the other, or the defeat of the one dependent upon the defeat of the other, is clearly unfair to the voters, and not at all conducive to a free and untrammelled expression of public sentiment as to the merits of either. ... Mr. Justice Stockton, delivering the opinion of the court in McMillan v. Lee County, 3 Iowa, 311, said: “The law in our opinion has provided no such mode of submitting these questions to the vote of the people. The evils which might be permitted to grow up under such a system are so obvious and apparent that any extended discussion of the question by us would be superfluous. It may be sufficient to suggest that, if it were allowed, measures in themselves odious and oppressive might by means of it become fastened upon a county which in no other way would have obtained the number of votes requisite to insure their adoption, but by being connected with some other proposition which commended itself to the favor and suffrages of the people by its inherent merits and popularity. They must be adopted or rejected together. After the same manner a measure desirable and necessary to a people of a county may when offered for their adoption be rejected by their votes and fail to become a law by reason of its connection with some other measure or measures unpopular and uncalled for. In either case there is an evil. An unpopular measure may be enforced upon an unwilling people or a necessary and desirable one may be denied them in despite of their wishes. It is sufficient for us to say that the law in our opinion intended to provide for no such system of contradictions .... In Lewis v. Bourbon County Com’rs, 12 Kan. 186, Mr. Justice Brewer thus stated the rule: “It may be conceded that two or more questions may be submitted at a single election, provided each question may be voted on separately, so that each may stand or fall upon its own merits. But that is a very different matter from tacking two questions together, to stand or fall upon a single vote. It needs no argument to show the rank injustice of such a mode of submission. By it several interests may be combined, and the real will of the people overslaughed. By this combination an unpopular measure may be tacked on to one that is popular, and carried through on the strength of the latter. A necessary matter may be made to carry with it some private speculation for the benefit of a few. Things odious and wrong in themselves may receive the popular approval because linked with propositions whose immediate consummation is deemed essential. It i[s]

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against the very spirit of popular elections, that aims to secure freedom of choice, not merely between parties, but also in respect to every office to be filled, and every measure to be determined. A voter at a state election would be shocked to be told that because he voted for a person named for governor on one ticket he must vote for all other persons named thereon; or that, voting for one person, he was to be understood as voting for all. He would feel that his freedom of choice was infringed upon. None the less so it is by such a submission as this.”

Ross v. Lipscomb, 83 S.C. 136, 65 S.E. 451, 454–55 (1909) (emphasis added). After our State Supreme Court decided Ross, it also decided other cases consistent with Ross. See, e.g., Johnson v. Roddey, 83 S.C. 136, 65 S.E. 451 (1909).<sup>6</sup>

However, in 1918 the General Assembly passed an act authorizing municipalities to incur bonds for water, sewerage and lighting plants in a single question. Act No. 463, 1918 S.C. Acts 801. That Act became § 4429 of the 1922 Code of Laws. It stated:

Powers of Municipal Corporations—Provisos.—All cities and towns in this State are hereby authorized and empowered to incur bonded indebtedness and to own and possess property to any amount within the discretion of the municipal authorities of such towns and cities for the purposes of purchase, establishment and maintenance of waterworks plants, sewerage systems and lighting plants: Provided, That the question of such purchase or establishment shall be submitted to an election, and no such purchase or construction shall be made except upon a majority of the electors of such cities or towns who are qualified to vote on the bonded indebtedness of said cities or towns; And provided, further, That the question of incurring such indebtedness be submitted with favorable results to the freeholders of such municipalities by petition, and the qualified voters of such municipalities for decision according to the requirements of the Constitution of this State upon the question of other bonded indebtedness.

Act No. 463, 1918 S.C. Acts 801 (emphasis added).<sup>7</sup> In 1930 the Supreme Court decided Waits v. Town of Ninety-Six, 154 S.C. 350, 151 S.E. 576 (1930). In Waits the Supreme Court of this State held that a bond referendum was “legal, valid and binding obligations of said town” for construction of waterworks and a sewerage system. Id. at 579. The Court held the ballot did not need to have two separate bond questions for water and lights because of the act passed in 1918. Id. Quoting from Waits, the court stated:

However, the Court decided that a separate submission was necessary in that case under the statutes considered in accordance with the rule as laid down in case of Ross v. Lipscomb, 83 S.C. 136, 65 S.E. 451, 137 Am. St. Rep. 794; Johnson v. Roddey, 83 S.C. 462, 65 S. E. 626; Chase v. Gilbert, 83 S.C. 546, 65 S.E. 735; State v. Brasington, 93 S.C. 447, 76 S. E. 1086; Weeks v. Bryant, 99 S.C. 8, 82 S. E. 988. These cases, however, were decided prior to the general statute now Section 4429 of Code of 1922, which was enacted in 1918, and evidently for the express purpose of changing the rule declared in the above cases. At any rate the general statute Sec. 4429 does have that effect, for it is plain that all three

<sup>6</sup> The Court decided other relevant cases too numerous to mention here.

<sup>7</sup> See S.C. Code § 5-21-250 authorizing a referendum for bonds for water and sewer purposes to be combined.

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purposes, water works, lighting plants, and sewerage systems are tied together; whereas under former provisions of the Code water works plant and sewerage systems were provided for under entirely different sections. ...

Waits v. Town of Ninety-Six, 154 S.C. 350, 151 S.E. 576, 578 (1930) (emphasis added). Thus, it is this Office's opinion that Waits did not change that each separate proposition should be voted on as individual questions, but that it merely complied with the South Carolina's General Assembly's codification that certain utility bonds controlled by municipalities could be voted within the same bond. We believe the language the Court warns of, the "evils" of voting on two or more propositions in the same question, still exist. Ross v. Lipscomb, 83 S.C. 136, 65 S.E. 451, 454–55 (1909). We also believe the Court's concerns are a correct interpretation of the General Assembly's intent since the law passed after Ross only gave municipalities the power to put propositions of bonds for certain utilities as one question. The General Assembly could have instead passed a law authorizing a single bond question for multiple purposes, but it chose to only combine water, sewer and light systems. Act No. 463, 1918 S.C. Acts 801.

Other courts have held that water and sewer systems were so connected that the two propositions could be placed together as one bond question. See, e.g., Henkel v. City of Pevely, 504 S.W.2d 141 (Mo. Ct. App. 1973). Quoting from Henkel, the Court in that case used a test described as a natural relationship between propositions and stated that:

It has long been the law of Missouri that doubleness in propositions submitted to voters in bond elections is to be condemned to prevent the yoking together of distinct things to the end that the two combined may attract a majority of the voters when neither separately might be able to do so. State ex rel. Pike County v. Gordon, 268 Mo. 321, 188 S.W. 88 (banc 1916); State ex inf. Barrett v. Maitland, 296 Mo. 338, 246 S.W. 267 (banc 1922). 64 Am.Jur.2d, Public Securities and Obligations, s 154, pp. 196—197 (1972). But not every proposition which contains multiple submissions is to be condemned. The test whether there is presented a single or multiple proposition is whether or not there exists a natural relationship between the objects united in one proposition and whether or not the several projects are so related that united they form in fact one rounded whole. "The test is whether the several parts of the proposition are plainly and naturally so related or connected that, united, they form in fact but one united, rounded whole, and may be logically viewed as parts or aspects of a single plan. If so, or if they are dependent one upon the other, they may be grouped together and submitted as one proposition; if not, and if they have to do with different subjects which are so unrelated and incongruous and their association so artificial as to constitute logrolling and a fraud upon the voter, separate submissions are required \* \* \*"  
State ex rel. Phelps County v. Holman, 461 S.W.2d 689, 691 (Mo. banc 1971) quoting from State ex inf. Taylor ex rel. Schwerdt v. Reorganized School District R—3, 257 S.W.2d 262, 266—267 (Mo.App.1953). Under these tests and under the authorities in this and other states, State ex rel. City of Chillicothe v. Wilder, 200 Mo. 97, 98 S.W. 465 (1906) (submitting water works and electric light plant does not violate rule although upon a new submission the proposition 'should' use the word combined); see cases collected in Annot., 4 A.L.R.2d 617, 654 (1949) and 64 Am.Jur.2d, Public Securities and Obligations, s 156, p. 201 (1972), the rule against doubleness of submission is not violated. A water system and the improvement of

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a sewer system complement one another. City of Maryville v. Cushman, 363 Mo. 87, 249 S.W.2d 347, 358 (1952).

Henkel v. City of Pevely, 504 S.W.2d 141, 146–47 (Mo. Ct. App. 1973).

Regarding public parks, our General Assembly has authorized a municipality to issue a bond referendum concerning a public park. See S.C. Code § 51-15-330; 1962 Code § 51-165.22; 1954 (48) 1809. Moreover, South Carolina Code § 4-9-30(5)(a) lists “recreation” as one of the operations of the county and its authority to levy taxes. We presume a court will interpret the General Assembly to include a “park” as a public purpose of the county. Furthermore, South Carolina Code § 4-9-35 requires each county council to establish a county public library system and deems the county public library system a “continuing function of the county.” S.C. Code § 4-9-35. Regarding public libraries, this Office has previously opined that a county council must be the one to sponsor a referendum to increase taxes for the benefit of the county library system. Op. S.C. Att’y Gen., 2011 WL 2214064 (S.C.A.G. May 6, 2011); see also S.C. Code § 4-9-39; § 4-9-30(5)(a). Moreover, as you are likely aware, any millage levied by county council for the county public library system must be used for the county public library system. S.C. Code § 4-9-39. Thus, a court will also include a public library as encompassed by the General Assembly as a public purpose of the county. Nevertheless, we did not find evidence in the information you provide that a park provides a service which can fairly be classified within the same purpose as money for county libraries. This is especially true where the General Assembly specifically authorized a bond referendum for a library pursuant to South Carolina Code § 4-9-39. Thus, a bond question for a county library is governed by a separate statute than one for a park. Id. This further supports your concerns of combining the two questions into one question on the referendum ballot.

**Conclusion:**

It is for all of the above reasons we are in agreement with the concerns expressed in your letter and believe a court will likely determine neither the Constitution nor the General Assembly intended to give a county council the authority to combine multiple separate issues for bond issuance into one referendum question, that Article X, § 14(4) of the South Carolina Constitution authorizes a purpose in the singular and that South Carolina Code § 7-13-400 specifies each question or issue be listed in the singular on the ballot. Moreover, we believe your concerns are further supported by our State’s case law and general bond referendum case law as expressed by McQuillin. However, this Office is only issuing a legal opinion based on the current law at this time and the information as provided to us. Until a court or the General Assembly specifically addresses the issues presented in your letter, this is only an opinion on how this Office believes a court would interpret the law in the matter. Additionally, you may also petition the court for a declaratory judgment, as only a court of law can interpret statutes and make such determinations. See S.C. Code § 15-53-20. If it is later determined otherwise, or if you have any additional questions or issues, please let us know.

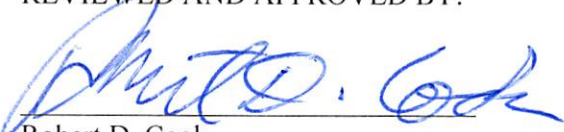
Sincerely,



Anita S. Fair  
Assistant Attorney General

The Honorable Paul Thurmond  
Page 10  
September 30, 2016

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General

# Exhibit 2

September 13, 2004 Attorney General Opinion



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

September 13, 2004

The Honorable Glenn F. McConnell  
President *Pro Tempore*  
The Senate  
P. O. Box 142  
Columbia, South Carolina 29202

Dear Senator McConnell:

You seek an opinion "as to the upcoming referendum in Charleston County for a sales tax ordinance and the ballot question to be used in the referendum." By way of background, you provide the following information:

[a]s you may be aware, the Supreme Court voided the last referendum on the grounds that the ballot question failed to conform to the statutory requirements of §4-37-30. After the Supreme Court voided the election, Governor Sanford issued an Executive Order to conduct a new election in conformity with state and federal law.

Since the Election Commission is charged with drafting the ballot question and concerns have been raised about the legality of drafting, we believe that it would be beneficial for your interpretation of applicable law so that they might know the legal parameters under which they have to operate in this regard. Hopefully, by taking this course of action we can perhaps avoid litigation on this matter, which could subject the taxpayers of Charleston to unnecessary expense as well as raise doubts as to the validity of the referendum. Therefore, we would respectfully request your opinion on the following issues that are relevant to the referendum.

First, does Section 4-37-30 require a separate question for each project on the ballot? Section 4-37-30(3) provides that "A separate question must be included on the referendum ballot for each purpose which purpose may, as determined by the governing body of a county, be set forth as a single question relating to several of the projects..." Secondly under the statute, is mass transit a different project or purpose from a bridge, road, or greenbelt? Finally, can a ballot question be written so as to include as a single question the following example and be in conformity with Section 4-37-30?

The Honorable Glenn F. McConnell

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"I approve a special sales and use tax in the amount of \_\_\_\_% to fund the following projects:

Project 1: Greenbelts and I-526 Yes\_\_\_No\_\_\_

Project 2: Mass Transit (CARTA) and Expressway Yes\_\_\_No\_\_\_

According to the information supplied to this Office, the question for the 2004 referendum will read as follows:

### CHARLESTON COUNTY SPECIAL SALES AND USE TAX

#### QUESTION 1

I approve a special sales and use tax in the amount of one-half ( $\frac{1}{2}$ ) of one percent to be imposed in Charleston County for not more than 25 years, or until a total of \$1,303,360,000 in resulting revenue has been collected, whichever occurs first. The sales tax proceeds will be used for the following projects:

Project (1) For financing the costs of highways, roads, streets, bridges and other transportation-related projects, facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County or jointly operated by the County and other governmental entities. \$1,081,788,800.

Project (2) For financing the costs of greenbelts. \$221,571,200.

YES

NO

Instructions to Voters: All qualified electors desiring to vote in favor of levying the special sales and use tax shall vote "YES;" and

All qualified electors opposed to levying the special sales and use tax shall vote "NO."

QUESTION 2

I approve the issuance of not exceeding \$113,000,000 of general obligations bonds of Charleston County, payable from the special sales and use tax described in Question 1 above, maturing over a period not to exceed 25 years, to fund completion of projects from among the categories described in Question 1 above.

YES

NO

Instructions to Voters: All qualified electors desiring to vote in favor of the issuance of bonds for the stated purposes shall vote "YES;" and

All qualified electors opposed to the issuance of bonds for the stated purposes shall vote "NO."

**Law / Analysis**

South Carolina Code Ann. Section 4-37-30 empowers counties either to impose a sales and use tax or to authorize an authority established by the county council to "use and impose tolls" in order to provide revenue for a transportation facility. Section 4-37-30(A) provides as follows:

(A) Subject to the requirements of this section, the governing body of a county may impose by ordinance a sales and use tax in an amount not to exceed one percent within its jurisdiction for a single project or for multiple projects and for a specific period of time to collect a limited amount of money.

(1) The governing body of a county may vote to impose the tax authorized by this section, subject to a referendum, by enacting an ordinance. The ordinance must specify:

(a) the project or projects and a description of the project or projects for which the proceeds of the tax are to be used, which may include projects located within or without, or both within and without, the boundaries of the county imposing the tax and which may include:

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(i) highways, roads, streets, bridges, mass transit systems, greenbelts, and other transportation-related projects facilities including, but not limited to, drainage facilities relating to the highways, roads, streets, bridges, and other transportation-related projects;

(ii) jointly-operated projects, of the type specified in sub-subitem(i), of the county and South Carolina Department of Transportation; or

(iii) projects, of the type specified in sub-subitem (i), operated by the county or jointly-operated projects of the county and other governmental entities;

(b) the maximum time, stated in calendar years or calendar quarters, or a combination of them, not to exceed twenty-five years or the length of payment for each project whichever is shorter in length, for which the tax may be imposed;

(c) the estimated capital cost of the project or projects to be funded in whole or in part from proceeds of the tax and the principal amount of bonds to be supported by the tax; and

(d) the anticipated year the tax will end.

Subsection (3) of § 4-37-30(A) further provides in pertinent part:

(3) A separate question must be included on the referendum ballot for each purpose which purpose may, as determined by the governing body of a county, be set forth as a single question relating to several of the projects, and the question must read substantially as follows:

"I approve a special sales and use tax in the amount of (fractional amount of one percent) (one percent) to be imposed in (county) for not more than (time) to fund the following project or projects:

Project (1) for \_\_\_\_\_ \$ \_\_\_\_\_

Yes \_\_\_\_

No \_\_\_\_

Project (2), etc.”

Several principles of statutory construction are pertinent to your inquiry. The primary objective in construing statutes is to determine and effectuate legislative intent if at all possible. Bankers Trust of S.C. v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). A statute must receive a practical, reasonable, and fair interpretation consonant with the purpose, design and policy of the lawmakers. Caughman v. Cola. Y.M.C.A., 212 S.C. 337, 47 S.E.2d 788 (1948). Words used must be given their plain and ordinary meaning without resort to subtle or forced construction either to limit or expand the statute’s operation. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1990). Every part of a statute must be given effect. State ex rel. McLeod v. Nessler, 273 S.C. 371, 256 S.E.2d 419 (1979). The statute must be harmonized to render the statute consistent with the general purpose of the act. Crescent Mfg. Co. v. Tax Commission, 129 S.C. 480, 124 S.E. 761 (1924).

We have advised with respect to § 4-37-30 in particular that “the purpose of the enacting ordinance, like the ballot question, is to educate the public about the substance of the pending referendum,” Op. S.C. Atty. Gen., November 7, 2001. Thus, we have observed that there should be

... as much disclosure to the public as practicable. Thus, although project categories may be sufficient, [we] ... would advise against identifying the projects only [by] reference to a pre-existing program list. The identification and description of the project categories should be adequately detailed in the enacting ordinance.

Id. See also, Op. S.C. Atty. Gen., August 30, 1996 [“A ballot description must give a true and impartial statement of the purpose of the measure in such language as not intentionally to be an argument or to be likely to create prejudice either for or against the measure.” 42 Am.Jur.2d, Initiative and Referendum, § 46 (1969).”]

The November 7, 2001 opinion also stressed that the governing body possesses broad discretion in terms of the expenditure of funds raised by virtue of the authorizing referendum. There, we noted the following:

[h]owever, although the statute requires that the governing body notify the public of the intended uses of the proceeds of the tax, the county may maintain some discretion in the expenditure of the funds for best interests of the public. For example, in Ramsey v. Cameron, 245 S.C. 189, 139 S.E.2d 765 (1965), the Supreme Court of South Carolina found that pursuant to the Municipal Bond Act, the effect the referendum question is to limit the use of funds for the purposes set forth in the referendum question. How those funds are spent and the precise improvements to which the proceeds are applied are decisions within the discretion of the municipal governing body. Id. In Sarrat v. Cash, 103 S.C. 531, 88 S.E. 256 (1916), the Supreme Court addressed the allegation by voters that they had approved a bond referendum based on representations made by school trustees that a school would be

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built in a certain location; upon approval of the referendum, the school trustees decided to build the school elsewhere. The court denied the plaintiffs' request to enjoin the trustees from building the school at a different locality, upholding the trustees' right to exercise discretion in the matter:

[The trustees] could not, therefore, bind themselves by promises or representation, so as to divest themselves of the right to a free and untrammelled exercise of their judgment and discretion for the best interests of their district at the time they were required to act as a body.... It would be contrary to public policy to allow public officers who are charged with the duty of exercising their judgment and discretion ... to bind or fetter themselves by promise or presentation to individuals or to electors of ... the district so that they could not, at all times, act freely and impartially.... The power was conferred upon them for public purposes, and it could not be lawfully bartered away to influence ... votes in the election. The electors are presumed to have known this. Therefore they had no legal right to reply upon the alleged representations, or to be influenced by them in ... voting in the election.

Id. at 535-36, 88 S.E. at 258.

Thus, we found that "... the county must sufficiently identify and describe the projects for which the proceeds of the tax will be used in order for the public to make an informed decision in the referendum, but the county need not so narrowly tailor the enacting ordinance that it leaves no room for the exercise of discretion in the actual expenditure of funds." Accordingly, we specifically advised "against identifying the projects only by reference to a pre-existing program list," noting instead that the "identification and description of the project categories should be adequately detailed in the enacting ordinance." In our view, "[a]ny attempts to fund projects that could have been, but were not, included in the referendum and identified to the public could be seen as a violation of the spirit of Section 4-37-30."

Recently, in an opinion dated August 22, 2003, we reiterated at some length the general standards governing the validity of ballot referenda in South Carolina. We cited earlier opinions of May 8 and May 14, 2003 as well as a wealth of other authorities.

Our May 8 opinion discussed the general law governing any alleged material ambiguity or misrepresentation which a court would consider concerning any court action relating to the November 5 bond referendum. We noted therein that, generally speaking, the general purpose of a bond referendum – like any other referendum – "must be stated with sufficient certainty to inform and not mislead the voters as to the object in view ...." Fairfax County Taxpayers Alliance v. Bd. of County

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Supervisors of Fairfax, 202 Va. 462, 117 S.E.2d 753 (1961), cited with approval by the South Carolina Supreme Court in Sadler v. Lyle, 254 S.C. 535, 176 S.E.2d 290, 295 (1970). [quoting Fairfax] See also, Stackhouse v. Floyd, 248 S.C. 183, 149 S.E.2d 437 (1966), citing Ex Parte Tipton v. Smith, 229 S.C. 471, 93 S.E.2d 640 (1956); Dick v. Scarborough, 73 S.C. 150, 53 S.E. 86 (1905) ["voter should have reasonable notice of the (bond) election and the issue it involved."]; Winterfield v. Town of Palm Beach, 455 So.2d 359 (Fla. 1984) [ballot for bond referendum may not fail to adequately inform voters of the proposed project]; McNichols v. City and County of Denver, 120 Colo. 380, 209 P.2d 910 (1949) [question submitted to the electors must not be misleading, but must be specific]. ...

The general rule in South Carolina is that the courts will employ every reasonable presumption in favor of sustaining a contested election. Irregularities or illegalities are held to be insufficient to set aside an election unless the errors actually appear to have affected the result of the election. Knight v. State Bd. of Canvassers, 297 S.C. 55, 374 S.E.2d 685 (1988); Sims v. Ham, 275 S.C. 369, 241 S.E.2d 316 (1980); Gregory v. South Carolina Democratic Executive Committee, 271 S.C. 364, 247 S.E.2d 439 (1978); Berry v. Spigner, 226 S.C. 183, 84 S.E.2d 831 (1954); Bolt v. Cobb, 225 S.C. 408, 82 S.E.2d 789 (1954). See also, Sykes v. Belk, *supra*. Quoting our Supreme Court in Connolly v. Beason, 100 S.C. 74, 84 S.E.297 (1915), in the typical situation, a variance in the bond referendum "does not affect the validity of the bonds .... It goes only to the application of the proceeds of the sale of the bonds."

Moreover, generally recognized is the following legal principle regarding the combination of separate propositions in a referendum ballot question:

[w]hile there may be no objection to voting on two separate propositions, at the same time, in most jurisdictions two or more separate or distinct propositions cannot be combined and submitted as a single question, so as to have only one expression of the voter to answer all propositions. The voters cannot be put into the position of being compelled to accept one purpose or proposition for which bonds are sought to be issued that they do not desire, merely because it is coupled with another purpose or proposition that they do desire, or to reject a purpose or proposition that is satisfactory, because it is coupled with another that is not. Thus a separate proposition ordinarily must be placed on the ballot for each distinct and independent object or purpose for which indebtedness is contemplated."

64 Am.Jur.2d, Public Securities and Obligations, § 145.

Our Supreme Court recently addressed the scope of § 4-37-30 in Douan v. Charleston Co. Council, 357 S.C. 601, 594 S.E.2d 261 (2003). In Douan, the Court granted certiorari review of a

The Honorable Glenn F. McConnell  
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decision from the State Election Commission denying protests regarding a referendum in which the voters of Charleston County had approved the imposition of a sales and use tax. The Court voided the referendum, based upon the ballot's wording.

Douan recognized that "[a] question should not be submitted in such form as to amount to an argument for its acceptance or rejection." 357 S.C. at 610. In the Court's view, "... the characterization of the tax in the voter's instructions was so misleading as to warrant nullification of the election results." Referencing § 7-13-400, which "provides for the form of the ballot when questions are submitted ...," as well as other decisions [Bellamy v. Johnson, 234 S.C. 172, 107 S.E.2d 33 (1959), George v. Municipal Election Comm'n of City of Charleston, 335 S.C. 182, 516 S.E.2d 206 (1999) and O'Beirne v. City of Elgin, 1914 WL 2613 (Ill. App. 1914)], the Court held:

[i]n our opinion, the Ballot used here does not conform with the statutorily mandated format, and the non-conformance is so substantial that it affects the fundamental integrity of the election. *See George*. The purpose of section 7-13-400 is the same as that of the Illinois statute discussed in *O'Beirne*: to aid the voter in understanding the *meaning* of his vote, not the *reason* for it. *See O'Beirne*. Instead of explaining *how* the voter could vote for or against the sales tax, the instructions to the voters in this case attributed *reasons* to vote in favor of the measure: "traffic congestion relief, safe roads, and clean water." In fact, these were the very same reasons that supporters of the tax espoused in favor of the tax in the weeks preceding election day. Additionally, just as in *O'Beirne* persons may be in favor of traffic congestion relief and clean water, "but for reasons satisfactory to themselves [do] not favor the [tax] in question." *O'Beirne* at \*2.

Like the ballot in *Bellamy*, the voter instructions here appear calculated to persuade and ultimately mislead the voters into voting in favor of the tax by obscuring the fact that a vote for clean water was a vote for increased sales tax.

Id. at 612.

While the Court in Douan voided the election because the "fundamental integrity" thereof was at stake, the Court refused to do so on the basis of two other technical violations of § 4-37-30(A)(3). In the Court's view, "the language actually placed on the ballot in this case differed from the required language in three ways." 357 S.C. at 609. In addition to the fact that "the title and instructions to the voters appeared to advocate passage of the tax," Id. – the ground upon which the Court struck down the referendum – Douan also noted that two other flaws were that

[f]irst, instead of listing a dollar amount for the cost of each project, the Ballot question adopted by County Council listed the *percentage* of the total amount to be collected that would be allotted to each project. The Ballot question included the total amount to be collected in the first paragraph of the ballot: 1,303,360,000.

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Second, the two main projects were not numbered (1) and (2) as suggested in § 4-37-30(A)(3), and, instead, were separated into two different paragraphs. The second project's purpose (purchasing and improving parklands and otherwise preserving greenspace) was buried at the end of the paragraph, after all of the benefits of the project were listed. Third, and, most importantly, the title and instructions to the voters appeared to advocate passage of the tax.

The Court did not address the issue of combining projects into a single vote, although such issue was argued in the Appellant's Brief.

We turn now to the specific questions which you have raised.

1. Does Section 4-37-30 require a separate question for each project on the ballot?

No. While § 4-37-30(A)(3) is somewhat ambiguous, it is evident that the General Assembly intended that several projects may be enumerated within a single question.

Originally, § 4-37-30(A)(3) simply provided that "[a] separate question must be included on the referendum ballot for each purpose ... ." This wording may have led to the question of whether a separate question was necessary for each "project" as enumerated in § 4-37-30(A)(1)(i) through (iii). In any event, an amendment to § 4-37-30(3) was enacted in 2000 as part of Act No. 368 to include the present language "... which purpose may, as determined by the governing body of a county, be set forth as a single question relating to several of the projects ... ." The title of Act 368 of 2000 provides that the General Assembly's purpose in the amendment to § 4-37-30(A)(3) was "To Provide That A Single Question Relating to The Funding of Several Projects May Be Placed on A Referendum Ballot By A County Governing Body To Determine Whether Voters Approve A Special Sales And Use Tax ... ." When read in conjunction with § 4-37-30(A)(1)(a), which refers only to the various categories therein as "projects" and not "purposes," we are of the opinion that county council has the discretion to combine several "projects" into a single ballot question.

However, the fact that the law now allows several projects to be placed within a single broad question, does not mean that the ballot may be so construed to authorize a single vote on different projects. This limitation contained in § 4-37-30 (3) is more fully explained below.

2. Is mass transit a different project or purpose from a bridge, road or greenbelt?

Yes. Section 4-37-30(A)(1)(i) through (iii) makes it clear that each category listed therein (highways, roads, streets, bridges, mass transit systems, greenbelts, and other transportation-related projects facilities ... ." are separate "projects." Subsection (3)'s ballot form buttresses this reading by providing by example for a separate enumeration of "projects." ["Project (1) ... Project 2, etc."].

The Honorable Glenn F. McConnell  
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3. Can a ballot question be written so as to include as a single question the following example and be in conformity with Section 4-37-30?

“I approve a special sales and use tax in the amount of (fractional amount of one percent) (one percent) to be imposed in (county) for not more than (time) to fund the following project or projects:

Project (1) for \_\_\_\_\_ \$ \_\_\_\_\_

Yes \_\_\_\_

No \_\_\_\_

Project (2), etc.”

No. While the statute permits the inclusion of various “projects” in a single question (see No. 1 above), it does not allow separate projects to be listed together as a single project – with a single vote thereupon. Subsection (3)’s question form clearly indicates that the General Assembly intended each project to be listed separately and that projects not be “lumped” together. Moreover, such combining of projects could result in a form of “bobtailing” in which voters interested in voting for or against one project would be required to vote the same way on another project which is combined with it. In our opinion, both the language, as well as the spirit of § 4-37-30, does not authorize such combinations.

It should be noted here that § 4-37-30 (6) provides that

[w]hen the optional sales and use tax is imposed, the governing body of the jurisdiction authorizing the referendum for the tax shall include by definition more than one item as defined in (a)(i) and (a)(ii) to describe the single project or multiple projects for which the proceeds of the tax are to be used.

Thus, this Subsection anticipates that certain projects must be described by “more than one item” in (a)(i) and (a)(ii). The obvious purpose of this provision is to provide full information to the voters regarding such multi-faceted projects.

There is no indication in the information which you have provided that § 4-37-30(6) is applicable here. We are thus unaware of any requirement, pursuant to this subsection, to describe the proposed projects by way of “more than one item.”

The Honorable Glenn F. McConnell

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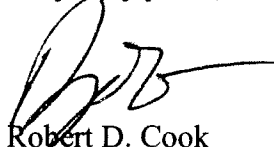
September 13, 2004

### Conclusion

Accordingly, in our opinion, § 4-37-30 requires that the various “items” in (a)(i), (a)(ii) and (a)(iii) be separately presented to the voters as “different projects.” While it may be argued that county council possesses the requisite discretion to combine projects together for a single vote, and arguably Douan implicitly approved such a grouping, we respectfully disagree that the statute permits such combination. This combination would, in our view constitute a form of “bobtailing” which is inconsistent with § 4-37-30(3). A voter would necessarily have to vote “all or nothing” on combined projects. Although the Amendment in 2000 clearly permitted several projects to be combined in the same question, it did not authorize several unrelated projects to be rolled into a single vote. The form of the ballot set forth in § 4-37-30(3) remained unchanged after the amendment, and clearly anticipates a separate “yes-no” vote on each “project.” Authorities are of the view that “[g]enerally, several separate distinct and unrelated projects may not be combined in one ballot.” State v. City of Augustine, 235 So.2d 1, 2 (Fla. 1970).

Thus, while the issue was before the Court in Douan, the Supreme Court did not directly comment upon this particular question. To our knowledge, our courts have not squarely decided the issue. Therefore, in our view, both the language and the spirit of § 4-37-30 require that each project be voted on in “yes-no” fashion separately. County Council should thus proceed cautiously in combining discrete projects into a single vote (as opposed to a single question allowing separate votes on each project). Accordingly, in our opinion, it would be prudent to seek judicial resolution before the November election, rather than to subject taxpayers to the possibility of a second court challenge after the vote has been held.

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General

RDC/an

# Exhibit 3

Meeting Minutes from the Traffic and Transportation Committee's  
January 23, 2024 meeting

## TRAFFIC AND TRANSPORTATION COMMITTEE

January 23, 2024

A meeting of the Traffic and Transportation Committee was held on this date beginning at 3:02 p.m. both in person in the Council Chambers at 80 Broad Street and over Zoom.

### PRESENT

**Committee Members:** Councilmember Michael Seekings (Chair), Councilmember Karl Brady (Vice-Chair), Councilmember Gregg Boyd, and Councilmember Caroline Parker

**Also Present:** Danny Thrower, Alex Owsiak, Robert Somerville, Michael Mathis, Mallary Scheer, Melissa Cruthirds, Jason Kronsberg, and Donna Constance

Chair Seekings called the meeting to order.

### Invocation

The meeting was opened with a moment of silence led by Chair Seekings.

### Approval of the November 28, 2023 minutes

On a motion by Councilmember Gregg, seconded by Councilmember Brady, the Committee voted unanimously to approve the November 28, 2023 Traffic and Transportation Committee meeting.

Chair Seekings said this would be the last meeting they would have in this configuration because the committee was changing its membership and would be adding a new member to become a committee of 6. He printed the City Code Section 2-58, which described what the committee did and requested their feedback on whether modernization and updating were needed. No action would be taken until the committee was able to weigh in and discuss their thoughts on what their purpose was.

Currently, under the City Code, the responsibilities of the Committee on Traffic and Transportation were to involve recommendations to the Council on matters of four things: highway programs, traffic planning and engineering, mass transit, and municipal parking facilities. He said they wanted to think about the ordinance to see if any modifications were needed so they could send it to the Rules Committee for updates and to make it more modern and relevant.

### Traffic Calming - Fenwick Drive - Old Windermere Neighborhood

Chair Seekings said this item was deferred at their last meeting to see if they would receive any negative comments from residents regarding the request for traffic calming. Mr. Somerville said they were requesting approval.

On a motion by Councilmember Gregg, seconded by Councilmember Brady, the Committee voted unanimously to approve traffic calming in the Old Windermere Neighborhood on Fenwick Drive.

### Berkeley County Project Update

Mr. Thrower was the Chairman of the CTC (County Transportation Committee), which was composed of 9 members of the Berkeley County Legislative Delegation. He, Jeff Lord Vice-Chairman, Natalie Ziegler Administrator of Goose Creek, Courtney Soler Administrator of Hanahan, Shelley Greene, Tom O'Brien the City of Charleston, Fred Lincoln, and Frank Carson. The Transportation Committee was self-administered with the "C" Fund Program through an agreement with Berkeley County. The County provides program management, financial accounting, and reporting and they also receive and disperse funds. He said the inception of the CTC showed over \$79.2 million worth of projects in Berkeley County had been completed. Presently, they were working with the State, City, and other municipalities, and recognized there were over 803 miles of State Secondary Roads, 415 miles of County paved road systems, 98 miles of City paved roads in Berkeley County, and 81 miles of the City of Charleston, which was part of the 98.

The roads that were completed in the City of Charleston were Seven Farms Drive, the portion from Daniel Island Drive to Island Park, the Island Park Drive portion from River Landing Drive to Riverbank Drive, and the Daniel Island Drive portion from Sevens Farms to Fairchild and then between the two bridges. To resurface a mile of state road averaged about \$670,000 a mile and the construction cost was about \$598,000. The County's local City Road systems were about \$297,000 a mile and \$265,000 for construction, which included engineering and design, bid packaging, and the CNI (Critical National Infrastructure). They had a new procedure that would help not only pick roads that were the best candidates but determine where those roads were listed, and how they fell into the equation. Based on the evaluation of how the roads were graded, the committee would vote to accept the roads for resurfacing, and better understand what was needed to complete and to grade from excellent, good, fair, poor, and failed. Their focus was on the poor-to-fail system and getting everything up to fair and above. He attended 2 meetings, one was with the Firm to see where they were, and the other was to finalize what was going on and what needed to be prioritized. There was a new procedure they were testing with the County, which was the State Resurface and Encroachment Permit. Instead of the CT giving roads to the state to oversee, manage, and resurface, they would take those on through the Encroachment Permit with the DOT to save time and cost and to manage everything and go through the process directly with the DOT.

He said the One Cent Sales Tax 2022 Referendum showed they were supposed to do no less than 200 miles of local street resurfacing in Berkeley County. This would help them to get more roads resurfaced and resurface roads that were in poor and failed condition.

Councilmember Gregg asked if they depended on State funding and if it would take 99 years to repave all the roads in the county. Mr. Thrower said because the State Road system had more lane miles than anyone else, he was not sure how long it would take for them to complete. Councilmember Gregg asked if the City of Goose Creek, Hanahan, and Moncks Corner were maintained by the county. Mr. Thrower said they were because they had an IG Agreement to maintain the road systems that were in the County system. Councilmember Gregg asked if they were accepted in the County system and not the City system. Mr. Thrower said they were. Councilmember Gregg asked when Berkeley County was annexed into the City of Charleston, if there was no foresight into how they were going to handle the maintenance of those roads. Mr. Thrower said the Public Works Department would maintain those roads.

Councilmember Gregg asked if the 2022 Penny Sales Tax included the 200 miles of local street resurfacing and if it would take over 20 years to complete. Mr. Thrower said it was over 7 years, and that included State, County, and local City.

Chair Seekings asked if they could identify what roads would benefit from the One-Cent Sales Tax and where they were in the order of doing them. Mr. Thrower said they could not identify those because the IDC Firm was in the process of rating them. He said County Council assigned \$1.25 million per member and \$2.5 million came from supervisor Crib. They were also given a list of roads from 3 to 5 miles because they were not sure of the cost. Chair Seekings asked if they wanted to know what had been requested, they would need to talk with Councilmember Whitley, to see what he took for his One Cent Sales Tax. Mr. Thrower said that information was listed on his spreadsheet and that he would give them a copy. Chair Seekings asked if they started banking those funds before paving would start. Mr. Thrower said they started to generate the referendum on May 1<sup>st</sup>. Chair Seekings asked if they had an idea about the 1,300 miles of road and what cycle they were looking at. Mr. Thrower said they were waiting for the rating to come out because they wanted to take care of the failed and poor conditions first. Chair Seekings asked if they were confident within the lifespan of the sales tax could they do 200 miles of road. Mr. Thrower said they were going to work hard to get them done and they were working with the DOT on the Encroachment Permit that would help to get the roads done faster. Chair Seekings asked if they had a projection on how much money would be raised over the seven years for the 200 miles of paving. Mr. Thrower said it would be over \$117 million.

### **Charleston County Project Updates**

Mr. Owsiak said he had a brief update on the proposed third Transportation Sales Tax. Their current Sales Tax Program, which was the first Transportation Sales Tax, those collections began in 2005 and was projected to collect \$1.3 billion over 25 years. The second Transportation Sales Tax was an additional half-cent sales tax, which they started collecting in FY 2017, and by FY 2042, they would collect \$2.1 billion. Their third Transportation Sales Tax was a continuation of the expired first Transportation Sales Tax, so there would be no increase in taxes, and the 9% rate would stay the same. He said those collections would start in FY 2027 and run through 2052, and they were projected to collect \$5.4 billion over 25 years. This would provide funding for Transportation Improvement Projects, Mass Transit, the Greenbelt Program, and the Mark Clark Extension.

They held a meeting on John's Island, and they would hold four more starting with West Ashley to discuss projects in that area as well as meetings on James Island, Mount Pleasant, and North Charleston at the end of February. They developed a website so citizens could go and review the information that was presented at those meetings, as well as submit comments. Also, they would present a list of projects to the Council for action.

He said 34% of the \$5.4 billion would fund the Mark Clark Project and they had other needs from their second Transportation Sales Tax, so they were looking at \$280 million to help finish those projects. There was a substantial increase in funding for the Greenbelt Program, which doubled the funding they received from the second sales tax to \$432 million. He said \$650 million was for CARTA and BRT operations, and they wanted to increase their annual allocation program and provide \$800 million for future projects. \$1 million would be allocated yearly for bike and pedestrian projects, \$2 million for intersections, and \$2 million for local paving and resurfacing for a total of \$9 million that would run through 2030. Then in 2031, their second sales tax would kick in and give \$2 million for bike and ped, \$1 million for intersections, and \$1 million for local paving.

Resurfacing would be increased to \$5 million for a total of \$11 million for those projects. If their third sales tax was adopted, those allocations would start in 2027. Also, an increase in program allocations would increase in 2027, which would bump up their allocations to \$5 million each for bike and ped and intersections, \$1 million for local paving, and a massive increase for their resurfacing program at \$18 million annually, with an additional \$2.5 million for rural roads. Chair Seekings asked if those were annual allocations. Mr. Owsiak said they were. He said for them to maintain their resurfacing program in the County it would be \$25 million annually. Currently, they were to receive \$10 million through both the TST allocations and CTC funding.

These were the listings for potential projects for their third sales tax. The Mark Clark extension was a priority for the County, and they had 21 potential projects that would be considered for the third sales tax, and the total cost for those projects was \$2.3 billion. He said they only had \$800 million available for some of those projects, but the list would need to be narrowed down and to focus on safety and congestion and consider the public comments they received from their public meetings.

Chair Seekings asked if the projects that were listed would be distributed to the public. Mr. Owsiak said they would. Chair Seekings asked if the North Bridge Bike-Ped Improvements would include building a bike-ped facility. Mr. Owsiak said yes, and those costs were projected for future costs to account for inflation as well. Chair Seekings asked if there was a report that showed how many people went to the meeting on John's Island. Mr. Owsiak said about 100 people had shown up.

Mr. Owsiak said they were wrapping up construction for Camp Road and the Riverland multi-use path, they had sidewalks and a cross pipe to put under the roadway.

The Glen McConnell Parkway Widening. Contractors were working on the westbound lanes and the shared-use path.

The Maybank Highway Improvements and Northern Pitchfork. A change order was issued to eliminate the left turn at Pitchfork onto River Road and to re-stripe the intersection at Maybank and River Road to provide lane assignments.

Sunset Drive at West Ashley Greenway. New paving was completed, and they would be installing rapid rectangular flashing Beacons.

He said these projects would take place within the next six months.

Ashley Avenue and Congress Street. Pedestrian improvements to install curb bulb-outs to increase safety.

Ashley Avenue and Huger Street. Installation of pedestrian signals, crosswalks, and curb bulb-outs to provide traffic calming and increase pedestrian safety.

Ashley Hall at Sam Rittenberg. Extend the existing turn lanes from Ashley Hall onto Sam Rittenburg with sidewalk extensions.

Country Club Drive and Folly Road. Installation of 630 LF of sidewalk along the east side of Country Club between Folly Road to the mid-block crossing.

Courtenay Drive and Doughty Street. The installation of pedestrian crossing signals and crosswalks in front of the medical plaza.

East Bay Street Sidewalk. Installation of new sidewalk along East Bay from Charlotte Street to existing sidewalk near 515 East Bay Street.

Fleming Walk Sidewalk. Installation of 675 LF of 5-foot sidewalk from Maybank Highway to Standard Way. They were revising plans for additional drainage, and they were engaging with property owners along Fleming Road to obtain necessary easements.

Folly Road Bike/Pedestrian Improvements. Installation of sidewalks along Folly Road from Ellis Creek to George L. Griffith Blvd. and the restriping of Folly Road.

Fort Johnson Road at Camp Improvements. Installation of a traffic circle at the intersection of Fort Johnson and Camp Road.

Fort Johnson Road at Secessionville Improvements. Installation of a traffic signal at the intersection with dedicated turn lanes.

Main Road Corridor - Segment A. Widening of Main Road between Bees Ferry Road and Chisolm Road along with a new interchange at the intersection with US-17 including flyover ramps.

Maybank and Woodland Shores Complete Streets. Installation of a mid-block pedestrian crossing on Maybank Highway at the Pour House and sidewalk along Woodland Shores Drive.

Oceanic Street Multi-Use Path. Installation of a multi-use path from SK8 Charleston Park to the proposed entrance of the Magnolia Development.

Romney Street Bike Lane. Installation of bike lanes on Romney Street from Meeting Street to Morrison Drive.

Saint Philip Street and Coming Street Mid-Block Crossing. Installation of a signalized, mid-block crossing of both Saint Philip Street and Coming Street.

Savage Road Sidewalk. Installation of sidewalk between Etiwan Avenue and the first entrance to Castlewood and between the second entrance to Castlewood and Henry Tecklenburg Drive.

Stocker/Chadwick Drive Capacity Improvements. Capacity improvements and bicycle and pedestrian upgrades to Stocker/Chadwick intersections at Savannah Highway.

He said these were other current projects they were working on.

Air Harbor Drainage Improvements. Improve the drainage in Air Harbor neighborhoods by increasing the pipe size and creating new outfalls to help prevent flooding.

Calhoun Street at the James Island Connector. Widening and intersection improvements along Calhoun Street from the James Island Connector to Gadsden Street.

Central Park Basin Drainage. Improve the drainage in the Central Park basin by installing a box culvert underneath Central Park Road.

Central Park Road at Riverland Drive. Installation of a crosswalk, right turn lane, RRFBS, and widened sidewalks to improve safety for all modes of transportation while limiting the impacts to properties and grand trees.

City Golf Course Crossing and Sidewalk Connection. Installation of a signalized crossing of Maybank Highway at the Charleston Municipal Golf Course and sidewalks along Maybank Highway to increase pedestrian safety.

The King Street Comprehensive Traffic Review. Study possible safety improvements for both motorists and pedestrians along King Street.

Main Road Corridor - Segment C. They were making improvements at the intersection and widening Bohicket Road from Brownswood Road to Edenvale with a multi-use path to extend along Bohicket to River Road.

Northbridge Bike/Pedestrian Improvements. This was for the construction of a new bicycle and pedestrian bridge and a connection from Northbridge Park to Azalea Drive.

Old Towne Road Bike and Pedestrian Improvements. This was a project to construct a 10-ft multi-use path connecting Donahue Drive to the Old Towne Creek County Park entrance.

Old Towne Transportation Improvements. This would improve Orange Grove at the Sam Rittenberg intersection as well as bicycle and pedestrian improvements throughout the corridor.

Old Towne Road Sidewalk. This would be to widen the existing sidewalk and construct a 10-ft multi-use path from Saint Augustine Drive to the Old Towne Creek County Park entrance.

Savannah Highway Capacity Improvements. They would be doing intersection improvements on US-17 at Dupont Road and Stinson Road, Wappoo Road, Magnolia Road, and Avondale Avenue to reduce congestion and improve safety.

Savannah Highway at Savage Road Improvements. They would be doing a right-turn lane extension from Savage Road onto US-17 along with sidewalk improvements.

Chair Seekings asked if it would be helpful for their application process for the Grant for Northbridge if the Committee, City Council, and the Mayor of the City of Charleston could put in a resolution. Mr. Owsiak said it certainly would be helpful.

Chair Seekings said the project for the Calhoun Street and James Island Connector Project had been prolonged for a long time. Mr. Owsiak said it started back in 2007. He said earlier they did right-of-way acquisitions with MUSC, and the footprint of the project expanded further so they went back to MUSC and other surrounding properties to acquire additional rights-of-way. They were still working through those, and they had 5 or 6 of the 11 properties they needed to acquire. Chair Seekings asked if it was that project in conjunction with the other project they were going to put a check valve at the end of Calhoun Street. Mr. Owsiak confirmed it was. Chair Seekings asked if they were to bundle the smaller projects that did not get bids and if would they be confident, they could get those bids. Mr. Owsiak said they bundled 4 to 5 projects together and those were in various areas throughout the county they could trim them back to 1 or 2 and if they were next to each other, they would be better confident they could get those bids.

Councilmember Gregg asked if they could anticipate when the Mark Clark Extension would start. Mr. Owsiak said he was not sure of the initial construction date, but he would follow up and get back to the committee. Councilmember Gregg asked if their numbers had accounted for cost inflation of the \$1.8 billion for those accounts. Mr. Owsiak said the total cost for the Mark Clark Extension was projected at \$2.3 billion. Some money was to come from the first and second sales tax to fund some of the initial preliminary design efforts. The State Transportation Infrastructure Bank was adding \$420 million in funding so only \$1.8 billion was required from the third sales tax. Councilmember Gregg asked when the Mark Clark Project was estimated 10 to 12 years ago what was the cost versus what the cost would be now. Mr. Owsiak said the cost was about \$700 million. The research that was done on the Third Sales Tax and other projects showed a 50% increase in

construction costs within the last 2 years. Chair Seekings asked if that was the cost of waiting on materials and labor. Mr. Owsiak said it was a combination of both because material costs had gone up and they were still seeing delays, especially with concrete and piping.

**Safe Streets and Roads for All (SS4A) Grant Amendment**

Mr. Mathis said they had a request to amend the Safe Streets and Roads for All Grant application from \$25,000 to \$30,000. He said the grant would be used to update their Transportation Plan to a Safety Action Plan so they could proceed and ask the Federal government for additional funds. Chair Seekings asked if they were hiring a consultant or if they would be doing this in-house. Mr. Mathis said they would hire a consultant.

On a motion from Councilmember Gregg, seconded by Councilmember Brady, the Committee voted unanimously to amend the Safe Streets and Roads for All (SS4A) Grant from \$25,000 to \$30,000.

**Wisnas LLC, DBA Charleston Express Certificate of Public Convenience and Necessity Limousine**

Mr. Mathis said they received an application for a DBA Charleston Express Certificate for Public Convenience and Necessity Limousine for Wisnas LLC. He said this was reviewed by their Legal Department and was recommended for approval.

On a motion by Councilmember Gregg, seconded by Councilmember Brady, the Committee voted unanimously to approve the DBA Charleston Express Certificate of Public Convenience and Necessity for Wisnas LLC.

With there being no further business, the Committee adjourned the meeting at 3:46 p.m.

Clerk of Council's Office

Donna Constance

# Exhibit 4

2004 Charleston County Transportation Sales Tax Ordinance

Ord #1324

adopted 8/11/04

**CHARLESTON COUNTY ORDINANCE NO. 1324**

**TO LEVY AND IMPOSE A ONE-HALF (2) OF ONE PERCENT SALES AND USE TAX, SUBJECT TO A REFERENDUM, WITHIN CHARLESTON COUNTY PURSUANT TO SECTION 4-37-30 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED; 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 SUCH TAX MAY BE IMPOSED; TO PROVIDE THE ESTIMATED COST OF THE PROJECTS FUNDED FROM THE PROCEEDS OF THE TAX; TO PROVIDE FOR A COUNTY-WIDE REFERENDUM ON THE IMPOSITION OF THE SALES AND USE TAX AND THE ISSUANCE OF GENERAL OBLIGATION BONDS AND TO PRESCRIBE THE CONTENTS OF THE BALLOT QUESTIONS IN THE REFERENDUM; TO PROVIDE FOR THE CONDUCT OF THE REFERENDUM BY THE BOARD OF ELECTIONS AND VOTER REGISTRATION OF CHARLESTON COUNTY; TO PROVIDE FOR THE ADMINISTRATION OF THE TAX, IF APPROVED; TO PROVIDE FOR THE PAYMENT OF THE TAX, IF APPROVED; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.**

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

**Section 1. Recitals and Legislative Findings.** As an incident to the enactment of this Ordinance, the County Council of Charleston County, South Carolina (the ACounty Council@) have made the following findings:

(a) The South Carolina General Assembly has enacted Section 4-37-30 of the Code of Laws of South Carolina 1976, as amended (the AAct@), pursuant to which the county governing body may impose by ordinance a sales and use tax in an amount not to exceed one percent, subject to the favorable results of a referendum, within the county area for a specific purpose or purposes and for a limited amount of time to collect a limited amount of money.

(b) Pursuant to the terms of Section 4-37-10 of the Code of Laws of South Carolina 1976, as amended, the South Carolina General Assembly has authorized county government to finance the costs of acquiring, designing, constructing, equipping and operating highways, roads, streets and bridges and other transportation related projects either alone or in partnership with other governmental entities. As a means to furthering the powers granted to the County under the provisions of Section 4-9-30 and Sections 6-21-10, *et. seq* of the Code of Laws of South Carolina 1976, as amended, the County Council is authorized to form a transportation authority or to enter into a partnership, consortium, or other contractual arrangement with one or

more other governmental entities pursuant to Title 4, Chapter 37 of the Code of Laws of the South Carolina 1976, as amended. The County Council has decided to provide funding for roads, mass transit, and greenbelts, *inter alia*, without the complexity of a transportation authority or entering into a partnership, consortium, or other contractual arrangements with one or more other governmental entities at this time; provided that nothing herein shall preclude County Council from entering into partnerships, consortiums, or other contractual arrangements in the future. County Council may utilize such provisions in the future as necessary or convenient to promote the public purposes served by funding roads, mass transit, greenbelts as provided in this Ordinance.

(c) The County Council finds that a one-half of one percent sales and use tax should be levied and imposed within Charleston County, for the following projects and purposes:

(i) For financing the costs of highways, roads, streets, bridges, and other transportation-related projects facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County or jointly operated by the County and other governmental entities.

(ii) For financing the costs of greenbelts

(the above herein collectively referred to as the Aprojects@).

For a period not to exceed 25 years from the date of imposition of such tax, to fund the projects at a maximum cost not to exceed \$1,303,360,000 to be funded from the net proceeds of a sales and use tax imposed in Charleston County pursuant to provisions of the Act, subject to approval of the qualified electors of Charleston County in referendum to be held on November 2, 2004. The imposition of the sales and use tax and the use of sales and use tax revenue, if approved in the referendum, shall be subject to the conditions precedent and conditions or restrictions on the use and expenditure of sales and use tax revenue established by the Act, the provisions of this Ordinance, and other applicable law. Subject to annual appropriations by County Council, sales and use tax revenues shall be used for the costs of the projects established in this Ordinance, as it may be amended from time to time, including, without limitation, payment of administrative costs of the projects, and such sums as may be required in connection with the issuance of bonds, the proceeds of which are applied to pay costs of the projects. All spending shall be subject to an annual independent audit to be made available to the public.

(c) County Council finds that the imposition of a sales and use tax in Charleston County for the projects and purposes defined in this Ordinance for a limited time not to exceed 25 years to collect a limited amount of money will serve a public purpose, provide funding for roads and transportation, mass transit, and greenbelts to facilitate economic development, promote public safety, provide needed infrastructure, promote desirable living conditions, enhance the quality of life in Charleston County, and promote public health and safety in the event of fire, emergency, panic, and other dangers, and prepare Charleston County to meet present and future needs of Charleston County and its citizens.

## **Section 2. Approval of Sales and Use Tax Subject to Referendum.**

2.1 A sales and use tax (the ASales and Use Tax@), as authorized by the Act, is hereby imposed in Charleston County, South Carolina, subject to a favorable vote of a majority of the qualified electors voting in a referendum on the imposition of the tax to be held in Charleston County, South Carolina on November 2, 2004.

2.2 The Sales and Use Tax shall be imposed for a period not to exceed 25 years from the date of imposition.

2.3 The maximum cost of the projects to be funded from the proceeds of the Sales and Use Tax shall not exceed, in the aggregate, the sum of \$1,303,360,000, and the maximum amount of net proceeds to be raised by the tax shall not exceed \$1,303,360,000, which includes administrative costs and debt service on bonds issued to pay for the projects. The estimated principal amount of initial authorization of bonds to be issued to pay costs of the projects and to be paid by a portion of the Sales and Use Tax is \$113,000,000. The proceeds of these bonds shall be used for the following projects, in estimated amounts as described: \$25,000,000 to begin the right-of-way acquisition and engineering process for the widening and improvement of Johnnie Dodds Boulevard from the Arthur Ravenel, Jr. Bridge to the I-526 overpass; \$7,000,000 for Glenn McConnell Parkway/Bees Ferry Road Intersection improvements; \$10,000,000 for road improvements on James Island (Folly Road and Maybank Highway intersection improvements, Harbor View Road Improvements, and an off-ramp interchange loop from the James Island Connector to Folly Road); \$6,000,000 for a US Highway 17 access ramp onto the US Highway 61 connector near Wesley Drive; \$29,000,000 for acquisition and construction of a roadway connecting Ashley Phosphate Road and the Palmetto Parkway through Spartan Blvd.; and \$36,000,000 for greenbelts.

2.4 The Sales and Use Tax shall be expended for the costs of the following projects, including payment of any sums as may be required for the issuance of and debt service for bonds, the proceeds of which are applied to such projects, for the following purposes:

(i) For financing the costs of highways, roads, streets, bridges, and other transportation-related projects facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County or jointly operated by the County and other governmental entities. The amount of the maximum total funds to be collected which shall be expended for these projects and purposes shall be no more than \$1,081,788,800.

(ii) For financing the costs of greenbelts. The amount of the maximum total funds to be collected which shall be expended for these projects and purposes shall be no more than \$221,571,200.

2.5 If the Sales and Use Tax is approved by a majority of the qualified electors voting in a referendum to be held in Charleston County on November 2, 2004, the tax is to be imposed on the first day of May, 2005 provided the Board of Elections and Voter Registration of

Charleston County shall certify the results not later than November 30, 2004, to Charleston County Council and the South Carolina Department of Revenue. Included in the certification must be the maximum cost of the projects to be funded in whole or in part from the proceeds of the tax, the maximum time specified for the imposition of the tax, and the principal amount of initial authorization of bonds, if any, to be supported by a portion of the tax.

2.6 The Sales and Use Tax, if approved in the referendum conducted on November 2, 2004 shall terminate on the earlier of:

- (1) on April 30, 2030; or
- (2) the end of the calendar month during which the Department of Revenue determines that the tax has raised revenues sufficient to provide the greater of either the costs of the projects as approved in the referendum or the cost to amortize all debts related to the approved projects.

2.7 Amounts of Sales and Use Tax collected in excess of the required proceeds must first be applied, if necessary, to complete each project for which the tax was imposed. Any additional revenue collected above the specified amount must be applied to the reduction of debt principal of Charleston County on transportation infrastructure debts only.

2.8 The Sales and Use Tax must be administered and collected by the South Carolina Department of Revenue in the same manner that other sales and use taxes are collected. The Department may prescribe amounts that may be added to the sales price because of the tax.

2.9 The Sales and Use Tax is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the applicable area that is subject to the tax imposed by Chapter 36 of Title 12 of the Code of Laws of South Carolina, and the enforcement provisions of Chapter 54 of Title 12 of the Code of Laws of South Carolina. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36 of Title 12 of the Code of Laws of South Carolina are exempt from the tax imposed by this Ordinance. The gross proceeds of the sale of food lawfully purchased with United States Department of Agriculture Food Stamps are exempt from the tax imposed by this Ordinance. The tax imposed by this Ordinance also applies to tangible property subject to the use tax in Article 13, Chapter 36 of Title 12 of the Code of Laws of South Carolina.

2.10 Taxpayers required to remit taxes under Article 13, Chapter 36 of Title 12 of the Code of Laws of South Carolina must identify the county in which the personal property purchased at retail is stored, used, or consumed in this State.

2.11 Utilities are required to report sales in the county in which the consumption of the tangible personal property occurs.

2.12 A taxpayer subject to the tax imposed by ' 12-36-920 of the Code of Laws of South Carolina 1976, as amended, who owns or manages rental units in more than one county must report separately in his sales tax return the total gross proceeds from business done in each county.

2.13 The gross proceeds of sales of tangible personal property delivered after the imposition date of the Sales and Use Tax, either under the terms of a construction contract executed before the imposition date, or written bid submitted before the imposition date, culminating in a construction contract entered into before or after the imposition date, are exempt from the sales and use tax provided in this ordinance if a verified copy of the contract is filed with Department of Revenue within six months after the imposition date of the sales and use tax provided for in this Ordinance.

2.14 Notwithstanding the imposition date of the Sales and Use Tax with respect to services that are billed regularly on a monthly basis, the sales and use tax authorized pursuant to this ordinance is imposed beginning on the first day of the billing period beginning on or after the imposition date.

**Section 3.     Remission of Sales and Use Tax; Segregation of Funds; Administration of Funds; Distribution to Counties: Confidentially.**

3.1 The revenues of the Sales and Use Tax collected under this Ordinance must be remitted to the State Treasurer and credited to a fund separate and distinct from the general fund of the State. After deducting the amount of any refunds made and costs to the Department of Revenue of administering the tax, not to exceed one percent of such revenues, the State Treasurer shall distribute the revenues quarterly to the Charleston County Treasurer and the revenues must be used only for the purposes stated herein. The State Treasurer may correct misallocations by adjusting subsequent distributions, but these distributions must be made in the same fiscal year as the misallocation. However, allocations made as a result of city or county code errors must be corrected prospectively.

3.2 (a) Any outside agencies, political subdivisions or organizations designated to receive funding from the Sales and Use Tax must annually submit requests for funding in accordance with procedures and schedules established by the County Administrator. The County Administrator shall prepare the proposed budget for the Sales and Use Tax and submit it to the County Council at such time as the County Council determines. At the time of submitting the proposed budget, the County Administrator shall submit to the County Council a statement describing the important features of the proposed budget.

(b) County Council shall adopt annually and prior to the beginning of fiscal year a budget for expenditures of Sales and Use Tax revenues. County Council may make supplemental appropriations for the Sales and Use Tax following the same procedures prescribed for the enactment of other budget ordinances. The provisions of this section shall not be construed to prohibit the transfer of funds appropriated in the annual budget for the Sales and Use Tax for purposes other than as specified in the annual budget when such transfers are approved by County Council. In the preparation of the annual budget, County Council may require any reports, estimates, and statistics from any county agency or department as may be necessary to perform its duties as the responsible fiscal body of the County.

(c) Except as specifically authorized by County Council, any outside agency or organization receiving an appropriation of the Sales and Use Tax must provide to County Council an independent annual audit of such agency=s or organization=s financial records and transactions and such other and more frequent financial information as required by County Council, all in form satisfactory to County Council.

3.3 The Department of Revenue shall furnish data to the State Treasurer and to the Charleston County Treasurer for the purpose of calculating distributions and estimating revenues. The information which must be supplied to the County upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of S.C. Code Ann. ' 12-54-240. Any person violating the provisions of this section shall be subject to the penalties provided in S.C. Code Ann. ' 12-54-240.

#### **Section 4. Sales and Use Tax Referendum; Ballot Question.**

4.1 The Board of Elections and Voter Registration of Charleston County shall conduct a referendum on the question of imposing the Sales and Use Tax in the area of Charleston County on Tuesday, November 2, 2004, between the hours of 7 a.m. and 7 p.m. under the election laws of the State of South Carolina, mutatis mutandis. The Board of Elections and Voter Registration of Charleston County shall publish in a newspaper of general circulation the question that is to appear on the ballot, with the list of projects and purposes as set forth herein, and the cost of projects, and shall publish such election and other notices as are required by law.

4.2 The referendum question to be on the ballot of the referendum to be held in Charleston County on November 2, 2004, must read substantially as follows:



# CHARLESTON COUNTY SPECIAL SALES AND USE TAX

## QUESTION 1

I approve a special sales and use tax in the amount of one-half (2) of one percent to be imposed in Charleston County for not more than 25 years, or until a total of \$1,303,360,000 in resulting revenue has been collected, whichever occurs first. The sales tax proceeds will be used for the following projects:

- Project (1) For financing the costs of highways, roads, streets, bridges, and other transportation- related projects facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County or jointly operated by the County and other governmental entities. \$1,081,788,800.
- Project (2) For financing the costs of greenbelts. \$221,571,200.

YES

NO

Instructions to Voters: All qualified electors desiring to vote in favor of levying the special sales and use tax shall vote AYES;@ and

All qualified electors opposed to levying the special sales and use tax shall vote ANO.@

## QUESTION 2

I approve the issuance of not exceeding \$113,000,000 of general obligation bonds of Charleston County, payable from the special sales and use tax described in Question 1 above, maturing over a period not to exceed 25 years, to fund completion of projects from among the categories described in Question 1 above.

YES

NO

Instructions to Voters: All qualified electors desiring to vote in favor of the issuance of bonds for the stated purposes shall vote AYES;@ and

All qualified electors opposed to the issuance of bonds for the stated purposes shall vote ANO.@

4.3 In the referendum on the imposition of a special sales and use tax in Charleston County, all qualified electors desiring to vote in favor of imposing the tax for the stated purposes shall vote Ayes@ and all qualified electors opposed to levying the tax shall vote Ano@. If a majority of the electors voting in the referendum shall vote in favor of imposing the tax, then the

tax is imposed as provided in the Act and this Ordinance. Expenses of the referendum must be paid by Charleston County government.

4.4 In the referendum on the issuance of bonds, all qualified electors desiring to vote in favor of the issuance of bonds for the stated purpose shall vote Ayes@ and all qualified electors opposed to the issuance of bonds shall vote Ano@. If a majority of the electors voting in the referendum shall vote in favor of the issuance of bonds, then the issuance of bonds shall be authorized in accordance with S.C. Constitution Article X, Section 14, Paragraph (6). Expenses of the referendum must be paid by Charleston County government.

**Section 5. Imposition of Tax Subject to Referendum.**

The imposition of the Sales and Use Tax in Charleston County is subject in all respects to the favorable vote of a majority of qualified electors casting votes in a referendum on the question of imposing a sales and use tax in the area of Charleston County in a referendum to be conducted by the Board of Elections and Voter Registration of Charleston County on November 2, 2004, and the favorable vote of a majority of the qualified electors voting in such referendum shall be a condition precedent to the imposition of a sales and use tax pursuant to the provisions of this Ordinance.

**Section 6. Miscellaneous.**

(c) If any one or more of the provisions or portions hereof are determined by a court of competent jurisdiction to be contrary to law, then that provision or portion shall be deemed severable from the remaining terms or portions hereof and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance; if any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied to any particular case in any jurisdiction or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, those circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever; provided, however, that the Sales and Use Tax may not be imposed without the favorable results of the referendum to be held on November 2, 2004

(d) This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

(e) The headings or titles of the several sections hereof shall be solely for convenience of reference and shall not effect the meaning, construction, interpretation, or effect of this ordinance.

(f) This Ordinance shall take effect immediately upon approval at third reading.

(g) All previous ordinances regarding the same subject matter as this ordinance are hereby repealed.

**ENACTED THIS 10TH DAY OF AUGUST, 2004.**

**CHARLESTON COUNTY COUNCIL**

(SEAL)

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Clerk of Council

First Reading: June 26, 2004  
Public Hearing: July 8, 2004  
Second Reading: July 27, 2004  
Third Reading: August 10, 2004

# Exhibit 5

Charleston County Ordinance #2302

#2302

Adopted: 7/23/2024

**AN ORDINANCE**

TO LEVY AND IMPOSE A ONE-HALF (1/2) OF ONE PERCENT SALES AND USE TAX, SUBJECT TO A REFERENDUM, WITHIN CHARLESTON COUNTY PURSUANT TO SECTION 4-37-30 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED; 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 SUCH TAX MAY BE IMPOSED; TO PROVIDE THE ESTIMATED COST OF THE PROJECTS FUNDED FROM THE PROCEEDS OF THE TAX; TO PROVIDE FOR A COUNTY-WIDE REFERENDUM ON THE IMPOSITION OF THE SALES AND USE TAX AND THE ISSUANCE OF GENERAL OBLIGATION BONDS AND TO PRESCRIBE THE CONTENTS OF THE BALLOT QUESTIONS IN THE REFERENDUM; TO PROVIDE FOR THE CONDUCT OF THE REFERENDUM BY THE BOARD OF ELECTIONS AND VOTER REGISTRATION OF CHARLESTON COUNTY; TO PROVIDE FOR THE ADMINISTRATION OF THE TAX, IF APPROVED; TO PROVIDE FOR THE PAYMENT OF THE TAX, IF APPROVED; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO

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

**Section 1. Recitals and Legislative Findings.** As an incident to the enactment of this Ordinance, the County Council of Charleston County, South Carolina (the "County Council") has made the following findings:

1.1 The South Carolina General Assembly has enacted Section 4-37-30 of the Code of Laws of South Carolina 1976, as amended (the "Act"), pursuant to which the county governing body may impose by ordinance a sales and use tax in an amount not to exceed one percent, subject to the favorable results of a referendum, within the county area for a specific purpose or purposes and for a limited amount of time to collect a limited amount of money.

1.2 Pursuant to the terms of Section 4-37-10 of the Code of Laws of South Carolina 1976, as amended, the South Carolina General Assembly has authorized county government to finance the costs of highways, roads, streets, bridges and other transportation related projects either alone or in partnership with other governmental entities. As a means to furthering the powers granted to the County under the provisions of Section 4-9-30 and Sections 6-21-10, *et seq.* of the Code of Laws of South Carolina 1976 as amended, the County Council is authorized to form a transportation authority or to enter into a partnership, consortium, or other contractual arrangement with one or more other governmental entities pursuant to Title 4, Chapter 37 of the Code of Laws of the South Carolina 1976, as amended. The County Council has decided to provide funding for highways, roads, streets, bridges, mass transit systems, greenbelts, and other transportation-related projects, *inter alia*, without the complexity of a transportation authority or entering into a partnership, consortium, or other contractual arrangements with one or more other governmental entities at this time; provided that nothing herein shall preclude County Council from entering into partnerships, consortiums, or other contractual arrangements in the future. County Council may utilize such provisions in the future as necessary or convenient to promote the public purposes served by funding highways, roads, streets, bridges, mass transit systems, greenbelts, and other transportation-related projects as provided in this Ordinance.

1.3 The County Council finds that a one-half of one percent sales and use tax should be levied and imposed within Charleston County, for the following projects and purpose:

(i) For financing the costs of highways, roads, streets, bridges, and other transportation-related projects facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County or jointly operated by the County and other governmental entities.

(ii) For financing the costs of greenbelts.

(the above herein referred to as the "projects").

For a period not to exceed 25 years from the date of imposition of such tax, to fund the projects at a maximum cost not to exceed \$5,400,000,000 to be funded from the net proceeds of a sales and use tax imposed in Charleston County pursuant to provisions of the Act, subject to approval of the qualified electors of Charleston County in referendum to be held on November 5, 2024. The imposition of the sales and use tax and the use of sales and use tax revenue, if approved in the referendum, shall be subject to the conditions precedent and conditions or restrictions on the use and expenditure of sales and use tax revenue established by the Act, the provisions of this Ordinance, and other applicable law. Subject to annual appropriations by County Council, sales and use tax revenues shall be used for the costs of the projects established in this Ordinance, as it may be amended from time to time, including, without limitation, payment of administrative costs of the projects, and such sums as may be required in connection with the issuance of bonds, the proceeds of which are applied to pay costs of the projects. All spending shall be subject to an annual independent audit to be made available to the public.

1.4 County Council finds that the imposition of a sales and use tax in Charleston County for the projects and purposes defined in this Ordinance for a limited time not to exceed 25 years to collect a limited amount of money will serve a public purpose, provide funding for highways, roads, streets, bridges, mass transit systems, greenbelts, and other transportation-related projects as provided in this Ordinance to facilitate economic development, promote public safety, provide needed infrastructure, promote desirable living conditions, enhance the quality of life in Charleston County, and promote public health and safety in the event of fire, emergency, panic, and other dangers, and prepare Charleston County to meet present and future needs of Charleston County and its citizens.

## **Section 2. Approval of Sales and Use Tax Subject to Referendum.**

2.1 A sales and use tax (the "Sales and Use Tax"), as authorized by the Act, is hereby imposed in Charleston County, South Carolina, subject to a favorable vote of a majority of the qualified electors voting in a referendum on the imposition of the tax to be held in Charleston County, South Carolina on November 5, 2024.

2.2 The Sales and Use Tax shall be imposed for a period not to exceed 25 years from the date of imposition.

2.3 The maximum cost of the projects to be funded from the proceeds of the Sales and Use Tax shall not exceed, in the aggregate, the sum of \$5,400,000,000, and the maximum amount of net proceeds to be raised by the tax shall not exceed \$5,400,000,000, which includes administrative costs and debt service on bonds issued to pay for the projects. The estimated principal amount of initial authorization of bonds to be issued to pay costs of the projects and to be paid by a portion of the Sales and Use Tax is \$1,000,000,000.

2.4 The Sales and Use Tax shall be expended for the costs of the following projects,

including payment of any sums as may be required for the issuance of and debt service for bonds, the proceeds of which are applied to such projects, for the following purposes:

- (i) For financing the costs of highways, roads, streets, bridges, and other transportation-related projects facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County or jointly operated by the County and other governmental entities, which may include, but not limited to:

Priority Project: Mark Clark Extension

Other Projects: Rivers Avenue Mobility Improvements, Northbridge Bicycle Pedestrian Improvements, Mall Drive Improvements, South US 17 Corridor Improvements from Dobbin Road to Main Road, Glenn McConnell Overpass at Magwood Drive, Ashley River Road Corridor Improvements from Bees Ferry Road to Old Parsonage Road, US 17 / SC 61 Exit Ramp Improvements, Maybank Highway Corridor Improvements from Bohicket Road to River Road, Maybank Highway Corridor Improvements from River Road to Stono River Bridge, Folly Road Bicycle Pedestrian Improvements including Sol Legare Road, Long Point Road Corridor Improvements from Whipple Road to US 17, Darrell Creek Trail Realignment, 2016 Sales and Use Tax Carryover Projects, Annual Allocation continuation: Resurfacing, Bike/Pedestrian Facilities, Local Paving, Intersection Improvements, and Rural Roads

The amount of the maximum total funds to be collected which shall be expended for these projects and purposes shall be no more than \$4,968,000,000;

- (ii) For financing the costs of greenbelts. The amount of the maximum total funds to be collected which shall be expended for these projects and purposes shall be no more than \$432,000,000.

2.5 If the Sales and Use Tax is approved by a majority of the qualified electors voting in a referendum to be held in Charleston County on November 5, 2024, the tax is to be imposed on the earlier of the first day of May, 2030 or the date after which the Department of Revenue determines all revenues from the 2004 Sales and Use Tax have been collected, provided the Board of Elections and Voter Registration of Charleston County shall certify the results not later than November 30, 2024, to Charleston County Council and the South Carolina Department of Revenue. Included in the certification must be the maximum cost of the projects to be funded in whole or in part from the proceeds of the tax, the maximum time specified for the imposition of the tax, and the principal amount of initial authorization of bonds, if any, to be supported by a portion of the tax.

2.6 The Sales and Use Tax, if approved in the referendum conducted on November 5, 2024 shall terminate on the earlier of:

- (1) Twenty-Five (25) years from the date of imposition; or
- (2) the end of the calendar month during which the Department of Revenue determines that the tax has raised revenues sufficient to provide the greater of either the costs of the projects as approved in the referendum or the cost to amortize all debts related to the approved projects.

2.7 Amounts of Sales and Use Tax collected in excess of the required proceeds must first be applied, if necessary, to complete each project for which the tax was imposed. Any additional revenue collected above the specified amount must be applied to the reduction of debt principal of Charleston County on transportation infrastructure debts only.

2.8 The Sales and Use Tax must be administered and collected by the South Carolina Department of Revenue in the same manner that other sales and use taxes are collected. The Department may prescribe amounts that may be added to the sales price because of the tax.

2.9 The Sales and Use Tax is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the applicable area that is subject to the tax imposed by Chapter 36 of Title 12 of the Code of Laws of South Carolina 1976, as amended, and the enforcement provisions of Chapter 54 of Title 12 of the Code of Laws of South Carolina 1976, as amended. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36 of Title 12 of the Code of Laws of South Carolina 1976, as amended, are exempt from the tax imposed by this Ordinance. The gross proceeds of the sale of food lawfully purchased with United States Department of Agriculture Food Stamps are exempt from the tax imposed by this Ordinance. The tax imposed by this Ordinance also applies to tangible property subject to the use tax in Article 13, Chapter 36 of Title 12 of the Code of Laws of South Carolina 1976, as amended.

2.10 Taxpayers required to remit taxes under Article 13, Chapter 36 of Title 12 of the Code of Laws of South Carolina 1976, as amended, must identify the county in which the personal property purchased at retail is stored, used, or consumed in this State.

2.11 Utilities are required to report sales in the county in which the consumption of the tangible personal property occurs.

2.12 A taxpayer subject to the tax imposed by Section 12-36-920 of the Code of Laws of South Carolina 1976, as amended, who owns or manages rental units in more than one county must report separately in his sales tax return the total gross proceeds from business done in each county.

2.13 The gross proceeds of sales of tangible personal property delivered after the imposition date of the Sales and Use Tax, either under the terms of a construction contract executed before the imposition date, or written bid submitted before the imposition date, culminating in a construction contract entered into before or after the imposition date, are exempt from the sales and use tax provided in this ordinance if a verified copy of the contract is filed with Department of Revenue within six months after the imposition date of the sales and use tax provided for in this Ordinance.

2.14 Notwithstanding the imposition date of the Sales and Use Tax with respect to services that are billed regularly on a monthly basis, the sales and use tax authorized pursuant to this ordinance is imposed beginning on the first day of the billing period beginning on or after the imposition date.

**Section 3. Remission of Sales and Use Tax; Segregation of Funds; Administration of Funds; Distribution to Counties; Confidentially.**

3.1 The revenues of the Sales and Use Tax collected under this Ordinance must be remitted to the State Treasurer and credited to a fund separate and distinct from the general fund of the State. After deducting the amount of any refunds made and costs to the Department of Revenue of administering the tax, not to exceed one percent of such revenues, the State Treasurer shall distribute the revenues quarterly to the Charleston County Treasurer and the revenues must be used only for the purposes stated herein. The State Treasurer may correct misallocations by adjusting subsequent distributions, but these distributions must be made in the same fiscal year as the misallocation. However, allocations made as a result of city or county code errors must be corrected prospectively.

3.2 (a) Any outside agencies, political subdivisions or organizations designated to receive funding from the Sales and Use Tax must annually submit requests for funding in accordance with procedures and schedules established by the County Administrator. The County Administrator shall prepare the proposed budget for the Sales and Use Tax and submit it to the County Council at such time as the County Council determines. At the time of submitting the proposed budget, the County Administrator shall submit to the County Council a statement describing the important features of the proposed budget.

(b) County Council shall adopt annually and prior to the beginning of fiscal year a budget for expenditures of Sales and Use Tax revenues. County Council may make supplemental appropriations for the Sales and Use Tax following the same procedures prescribed for the enactment of other budget ordinances. The provisions of this section shall not be construed to prohibit the transfer of funds appropriated in the annual budget for the Sales and Use Tax for purposes other than as specified in the annual budget when such transfers are approved by County Council. In the preparation of the annual budget, County Council may require any reports, estimates, and statistics from any county agency or department as may be necessary to perform its duties as the responsible fiscal body of the County.

(c) Except as specifically authorized by County Council, any outside agency or organization receiving an appropriation of the Sales and Use Tax must provide to County Council an independent annual audit of such agency's or organization's financial records and transactions and such other and more frequent financial information as required by County Council, all in form satisfactory to County Council.

3.3 The Department of Revenue shall furnish data to the State Treasurer and to the Charleston County Treasurer for the purpose of calculating distributions and estimating revenues. The information which must be supplied to the County upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of S.C. Code Ann. Section 12-54-240. Any person violating the provisions of this section shall be subject to the penalties provided in S.C. Code Ann. Section 12-54-240.

#### **Section 4. Sales and Use Tax Referendum; Ballot Question.**

4.1 The Board of Elections and Voter Registration of Charleston County shall conduct a referendum on the question of imposing the Sales and Use Tax in the area of Charleston County on Tuesday, November 5, 2024, between the hours of 7 a.m. and 7 p.m. under the election laws of the State of South Carolina, *mutatis mutandis*. The Board of Elections and Voter Registration of Charleston County shall publish in a newspaper of general circulation the question that is to appear on the ballot, with the list of projects and purposes as set forth herein, and the cost of projects, and shall publish such election and other notices as are required by law.

4.2 The referendum question to be on the ballot of the referendum to be held in Charleston County on November 5, 2024, must read substantially as follows:

#### CHARLESTON COUNTY SPECIAL SALES AND USE TAX

##### QUESTION 1

I approve a special sales and use tax in the amount of one-half ( $\frac{1}{2}$ ) of one percent to be imposed in Charleston County for not more than twenty-five (25) years, or until a total of \$5,400,000,000 in resulting revenue has been collected, whichever occurs first. The sales tax proceeds will be used to fund the following projects:

Project (1) For financing the costs of highways, roads, streets, bridges, and other transportation-related projects facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County or jointly operated by the County and other governmental entities. \$4,968,000,000.

Project (2) For financing the costs of greenbelts. \$432,000,000.

YES \_\_\_\_\_  
NO \_\_\_\_\_

Instructions to Voters: All qualified electors desiring to vote in favor of levying the special sales and use tax shall vote "YES;" and

All qualified electors opposed to levying the special sales and use tax shall vote "NO."

##### QUESTION 2

I approve the issuance of not exceeding \$1,000,000,000 of general obligation bonds of Charleston County, payable from the special sales and use tax described in Question 1 above, maturing over a period not to exceed twenty-five (25) years, to fund completion of projects from among the categories described in Question 1 above.

YES \_\_\_\_\_  
NO \_\_\_\_\_

Instructions to Voters: All qualified electors desiring to vote in favor of the issuance of bonds for the stated purposes shall vote "YES;" and

All qualified electors opposed to the issuance of bonds for the stated purposes shall vote "NO."

4.3 In the referendum on the imposition of a special sales and use tax in Charleston County, all qualified electors desiring to vote in favor of imposing the tax for the stated purposes shall vote "yes" and all qualified electors opposed to levying the tax shall vote "no". If a majority of the electors voting in the referendum shall vote in favor of imposing the tax, then the tax is imposed as provided in the Act and this Ordinance. Expenses of the referendum must be paid by Charleston County government.

4.4 In the referendum on the issuance of bonds, all qualified electors desiring to vote in favor of the issuance of bonds for the stated purpose shall vote "yes" and all qualified electors opposed to the issuance of bonds shall vote "no". If a majority of the electors voting in the referendum shall vote in favor of the issuance of bonds, then the issuance of bonds shall be authorized in accordance with S.C. Constitution Article X, Section 14, Paragraph (6). Expenses of the referendum must be paid by Charleston County government.

**Section 5. Imposition of Tax Subject to Referendum.**

The imposition of the Sales and Use Tax in Charleston County is subject in all respects to the favorable vote of a majority of qualified electors casting votes in a referendum on the question of imposing a sales and use tax in the area of Charleston County in a referendum to be conducted by the Board of Elections and Voter Registration of Charleston County on November 5, 2024, and the favorable vote of a majority of the qualified electors voting in such referendum shall be a condition precedent to the imposition of a sales and use tax pursuant to the provisions of this Ordinance.

**Section 6. Miscellaneous.**

6.1 If any one or more of the provisions or portions hereof are determined by a court of competent jurisdiction to be contrary to law, then that provision or portion shall be deemed severable from the remaining terms or portions hereof and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance; if any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied to any particular case in any jurisdiction or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, those circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever; provided, however, that the Sales and Use Tax may not be imposed without the favorable results of the referendum to be held on November 5, 2024.

6.2 This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina and all suits and actions arising out of this Ordinance shall be instituted in a court of competent jurisdiction in this State.

6.3 The headings or titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation, or effect of this ordinance.

6.4 This Ordinance shall take effect immediately upon approval following third reading.

6.5 All previous ordinances regarding the same subject matter as this Ordinance are hereby repealed.

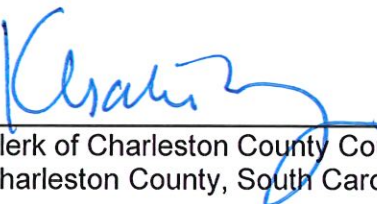
Enacted this 23<sup>rd</sup> day of July 2024.



CHARLESTON COUNTY, SOUTH CAROLINA

By:   
Herbert R. Sass, III  
Chairman of Charleston County Council

ATTEST:

By:   
Clerk of Charleston County Council  
Charleston County, South Carolina

First Reading: June 4, 2024  
Public Hearing: June 18, 2024  
Second Reading: June 18, 2024  
Third Reading: July 23, 2024

# Exhibit 6

Model Transportation Sales Tax Ordinance

## **MODEL ORDINANCE AND REFERENDUM LANGUAGE**

Section 2.2.4(i)-(ii) of Charleston County Ordinance #2302 should be amended to read as follows:

2.4 The Sales and Use Tax shall be expended for the costs of the following projects, including payment of any sums as may be required for the issuance of and debt service for bonds, the proceeds of which are applied to such projects, for the following purposes:

- (i) For financing the costs of the following highways, roads, streets, bridges, and other transportation-related project facilities, and drainage facilities related thereto, and mass transit systems operated by Charleston County or jointly operated by the County and other governmental entities. The amount of the maximum total funds to be collected which shall be expended for these projects and purposes shall be no more than \$4,968,000,000.

### **Priority Project**

**Mark Clark Extension: \$1,800,000,000.**

### **Other Projects**

**Rivers Avenue Mobility Improvements: \$ \_\_\_\_\_**

**Northbridge Bicycle Pedestrian Improvements: \$ \_\_\_\_\_**

**Mall Drive Improvements: \$ \_\_\_\_\_**

**South US 17 Corridor Improvements from Dobbin Road to Main Road: \$ \_\_\_\_\_**

**Glenn McConnell Overpass at Magwood Drive: \$ \_\_\_\_\_**

**Ashley River Road Corridor Improvements from Bees Ferry Road to Old Parsonage Road: \$ \_\_\_\_\_**

**US 17 / SC 61 Exit Ramp Improvements: \$ \_\_\_\_\_**

**Maybank Highway Corridor Improvements from Bohicket Road to River Road: \$ \_\_\_\_\_**

**Maybank Highway Corridor Improvements from River Road to Stono River Bridge: \$ \_\_\_\_\_**

**Folly Road Bicycle Pedestrian Improvements including Sol Legare Road: \$ \_\_\_\_\_**

**Long Point Road Corridor Improvements from Whipple Road to US 17: \$ \_\_\_\_\_**

**Darrell Creek Trail Realignment: \$ \_\_\_\_\_**

**2016 Sales and Use Tax Carryover Projects:** \$ \_\_\_\_\_

**Annual Allocation continuation--Resurfacing, Bike/Pedestrian Facilities, Local Paving, Intersection Improvements, and Rural Roads 4:** \$ \_\_\_\_\_

- (ii) For financing the costs of greenbelts. The amount of the maximum total funds to be collected which shall be expended for these projects and purposes shall be no more than \$432,000,000.

**SAMPLE REFERENDUM LANGUAGE**

I approve a special sales and use tax in the amount of one-half cent to be imposed in Charleston County for not more than twenty-five years, or until a total of \$5,400,000,000 in resulting revenue has been collected, to fund the following project or projects:

**Project (1)** For financing the cost of the Mark Clark Extension, **as a priority project for regional connection**, for \$1,800,000,000.

**Yes** \_\_\_\_

**No** \_\_\_\_

**Project (2)** For financing the cost of local roads, streets, bridges, intersections and other local improvements for \$ \_\_\_\_.

**Yes** \_\_\_\_

**No** \_\_\_\_

**Project (3)** For financing the cost of greenbelts for \$432,000,000.

**Yes** \_\_\_\_

**No** \_\_\_\_

**Project (4)** For financing the cost of continual allocation to Resurfacing, Bike/Pedestrian Facilities, Local Paving, Intersection Improvements, and Rural Roads 4 for \$ \_\_\_\_.

**Yes** \_\_\_\_

**No** \_\_\_\_

**Project (5)** For financing the cost of 2016 Sales and Use Tax carryover projects for \$ \_\_\_\_.

Yes \_\_\_\_

No \_\_\_\_

**QUESTION 2**

I approve the issuance of not exceeding \$\_\_\_\_\_ of general obligation bonds of Charleston County, maturing over a period not to exceed \_\_\_\_ years to fund the Mark Clark Extension project.

Yes \_\_\_\_

No \_\_\_\_

**QUESTION 3**

I approve the issuance of not exceeding \$of general obligation bonds of Charleston County, maturing over a period not to exceed \_\_\_\_ years to fund the {insert other projects that will be bonded) projects.

Yes \_\_\_\_

No \_\_\_\_

# Exhibit 7

Meeting Minutes from the Finance Committee's April 18, 2024 Meeting

April 18, 2024  
North Charleston, SC

A meeting of Charleston County Council's Finance Committee was called to order at 5:00 pm on the 18<sup>th</sup> day of April 2024, in the Beverly T. Craven Council Chambers, Second Floor of the Lonnie Hamilton, III, Public Services Building, located at 4045 Bridge View Drive, North Charleston, South Carolina.

The following members of Council were present: Herb Sass, Chairman, who presided; Joe Boykin, Henry Darby, Jenny Costa Honeycutt, Larry Kobrovsky, Kylon Jerome Middleton, Brantley Moody, Teddie E. Pryor, Sr., and Robert L. Wehrman.

County Administrator Bill Tuten and Deputy County Attorney Bernard E. Ferrara were also present.

The Chairman announced the first item on the agenda was approval of minutes of the Finance Committee of April 4, 2024. Mr. Middleton moved approval of the minutes, seconded by Mr. Boykin, and carried.

The Chairman announced the next item on the agenda were resolutions. Mr. Pryor moved approval of the resolutions, seconded by Mr. Middleton, and carried.

Item A:

The resolution for the Yom Hashoah - Holocaust Remembrance is as follows:

Yom Hashoah -  
Holocaust  
Remembrance  
Resolution

Request to Adopt

### A RESOLUTION OF CHARLESTON COUNTY COUNCIL

*Proclaiming the Days of Remembrance in memory of the victims of the Holocaust*

**WHEREAS**, the Holocaust was the state sponsored systematic, persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945; **and**,

**WHEREAS**, we remember with sadness the 11 million people, including six million Jews, who were victims of Hitler's 'final solution' along with those who were persecuted for their religious and political beliefs, sexual orientation, and physical disabilities; **and**,

**WHEREAS**, we remember with admiration the resisters and rescuers known and unknown who risked and lost their lives to save others; **and**,

**WHEREAS**, we remember with respect the Survivors who escaped, were sheltered, or who were freed and who lived to contribute so much to our community and to our world; **and**,

**WHEREAS**, the history of the Holocaust offers an opportunity to reflect on the moral responsibilities of individual societies and governments; **and**,

**WHEREAS**, we have an obligation to ensure that the memory and legacy of lives lost or forever changed in this horrific event are never forgotten; **and**,

**WHEREAS**, we remember and honor the liberators which liberated the World War II concentration camps 79 years ago; **and**,

**NOW, THEREFORE, BE IT RESOLVED** that Charleston County Council does hereby pledge today to firmly commit ourselves to **NEVER AGAIN** and to work to promote human dignity by confronting intolerance and hate whenever and wherever it occurs;

**BE IT FURTHER RESOLVED** that Charleston County Council, pursuant to an act of Congress (Public Law 96-388 October 7 1980) and United States Holocaust Memorial Council, does hereby proclaim the week of Sunday, May 5<sup>th</sup> through Sunday, May 12<sup>th</sup> as **WEEK OF REMEMBRANCE IN MEMORY OF THE VICTIMS, SURVIVORS, RESCUERS AND LIBERATORS OF THE HOLOCAUST** and encourages citizens to join the community-wide Yom HaShoah Holocaust Remembrance Program on Sunday, April 5<sup>th</sup> at 4:00 pm held downtown at the Kahal Kadosh Beth Elohim Synagogue. This year's theme is "Beyond Survival: A Legacy of Resistance" and will display the importance of action through generational remembrance.

**CHARLESTON COUNTY COUNCIL**

Herbert R. Sass, III, Chairman  
April 18, 2024

Item B:

The resolution for Telecommunicators Week is as follows:

Telecommunicators  
Week

Request to Adopt

**A RESOLUTION  
OF CHARLESTON COUNTY COUNCIL**

**Honoring our Public Safety Telecommunicators and  
Recognizing April 14-20, 2024 as "Public Safety Telecommunicator Week"**

Whereas, 9-1-1 is nationally recognized as the number to call in an emergency to receive immediate help from Law Enforcement, Fire, EMS or other appropriate emergency response entities; and,

Whereas, our Public Safety Telecommunicators are the first "first responders", gathering critical information, providing lifesaving instructions, and comforting callers in their time of need; and,

Whereas, our Public Safety Telecommunicators serve as a lifeline for 41 Law Enforcement, Fire, Rescue, Emergency Medical Service, and Emergency Management agencies; and,

Whereas, we recognize that their jobs answering 9-1-1 calls and dispatching emergency response units are among the toughest of public service jobs; requires enormous personal dedication, ongoing training, and professional skill; and,

Whereas, the skills of the Public Safety Telecommunicators continue to evolve as our 911 Center uses next generation 911 operations and technology that includes highly accurate location information for callers and responders, crowdsourced data providing live-time situational awareness, and enhanced geographical information; and,

Whereas, due to the performance of our Public Safety Telecommunicators, our Center is accredited by the Commission on Accreditation for Law Enforcement Agencies and the International Academies of Emergency Dispatch; and,

Whereas, our Public Safety Telecommunicators have faced extremely difficult circumstances due to staffing shortages; and,

Whereas, Charleston County Council is proud of the dedication and professionalism of our Public Safety Telecommunicators, and the ongoing public safety awareness events which teach the importance and proper use of 9-1-1; and,

Whereas, Charleston County recognizes our Public Safety Telecommunicators as first responders who make life and death decisions in a stressful environment to aid those in need and support our public safety responders.

**NOW, THEREFORE BE IT RESOLVED**, that Charleston County Council honors our Public Safety Telecommunicators and recognizes April 14<sup>th</sup> through 20<sup>th</sup> as "Public Safety Telecommunicator Week" in Charleston County.

**CHARLESTON COUNTY COUNCIL**

Herbert R. Sass, III, Chairman  
April 18, 2024

Item C:

The resolution honoring Secretary of Transportation Christy Hall is as follows:

Honoring  
Secretary of  
Transportation  
Christy Hall

Request to Adopt

**A RESOLUTION  
OF CHARLESTON COUNTY COUNCIL**  
*Honoring Secretary of Transportation Christy Hall  
On the Occasion of Her Retirement*

**WHEREAS**, Charleston County Council recognizes that the foundation of our community is grounded in those who give of themselves selflessly to help others; and,

**WHEREAS**, Charleston County Council from time to time has the privilege of recognizing an individual who exemplifies such a commitment; and,

**WHEREAS**, Christy Hall was appointed by Governor Nikki Haley to serve as the Secretary of the South Carolina Department of Transportation on July 2, 2015; and,

**WHEREAS**, Secretary Hall is a native South Carolinian, a graduate of Clemson University, and has served the State of South Carolina in various roles for three decades; and,

**WHEREAS**, Secretary Hall quadrupled the amount of road and bridge work completed throughout our State and provided leadership during some of the state's most damaging natural disasters to date; and,

**WHEREAS**, Secretary Hall has earned the trust of leaders, lawmakers, and citizens across the State of South Carolina as she has led the SCDOT through times of unprecedented growth; and,

**WHEREAS**, Secretary Hall's leadership was instrumental in convincing legislators to invest an additional \$600 million to enhance a safe, reliable, multi-modal transportation network across South Carolina; and,

**WHEREAS**, Secretary Hall has served with dedication and distinction, advocating tirelessly for Charleston County's critical infrastructure needs before the State Transportation Infrastructure Bank and the Joint Bond Review Committee; and,

**WHEREAS**, under Secretary Hall's visionary leadership and directive, the SCDOT adopted Complete Streets, making roads safer for all users in Charleston County and across the state; furthermore, she lent her support for federal grants to fund the Ashley River Pedestrian Bridge and the Better North Bridge projects; and,

**WHEREAS**, Secretary Hall has executed on her bold vision for improved transit with support for and SCDOT's management of the first-in-the-state mass transit system, the Lowcountry Bus Rapid Transit; and,

**WHEREAS**, Charleston County Council concurs with Governor Henry McMaster in his assertion that, "Secretary Hall will be remembered as one of the greatest transportation secretaries in the State's history."

**NOW THEREFORE, BE IT RESOLVED**, that Charleston County Council commends and hereby extends its sincere appreciation to Christy Hall for her outstanding service, unwavering dedication, and profound impact on the transportation landscape for the citizens of Charleston County and the State of South Carolina;

**NOW THEREFORE, BE IT FURTHER RESOLVED**, that we extend a heartfelt congratulations and wish a fulfilling and rewarding retirement, confident in the knowledge that her legacy will endure as a beacon of inspiration for future generations of transportation leaders.

**CHARLESTON COUNTY COUNCIL**

Herbert R. Sass, III, Chairman  
April 18, 2024

Item D:

The resolution commissioning US Coast Guard Cutter Calhoun is as follows:

**US Coast Guard  
Cutter Calhoun  
Commissioning**

**Request to Adopt**

**A RESOLUTION  
OF CHARLESTON COUNTY COUNCIL**  
*Commemorating the Commissioning of  
US Coast Guard Cutter Calhoun*

**WHEREAS**, **US Coast Guard Cutter Calhoun** is the newest 418-foot, Legend-class cutter to join the Coast Guard fleet and, as a National Security Cutter, is the largest and most technologically advanced ship in the Coast Guard; and,

**WHEREAS**, the cutter's primary missions are counterdrug operations, migrant interdiction, living marine resources, defense readiness, and command and control in support of US Coast Guard operations worldwide and here at home; and,

**WHEREAS, Cutter Calhoun** is named to honor the first Master Chief Petty Officer of the Coast Guard, Charles L. Calhoun, who was responsible for improving and developing many of the Coast Guard's administrative and people-focused programs, resulting in better communications and retention efforts within the enlisted community; and,

**WHEREAS**, the ship's motto, "Never Give Up," characterizes the dedication Master Chief Petty Officer Charles Calhoun displayed throughout his military career and is the rally cry of the **Cutter Calhoun** crew; and,

**WHEREAS, Cutter Calhoun** will be homeported in North Charleston, South Carolina, joining Coast Guard Cutters Hamilton, James, and Stone.

**NOW, THEREFORE, BE IT RESOLVED**, Charleston County Council is pleased to commemorate the commissioning of the US Coast Guard Cutter Calhoun, welcome its command and crew to the Charleston County community, and humbly thank the members of the Coast Guard for their brave and faithful service.

**CHARLESTON COUNTY COUNCIL**

**Herbert R. Sass, III, Chairman**  
**April 18, 2024**

The Chairman disbanded the Finance Committee meeting in order to begin the County Council meeting.

After County Council approved and presented several resolutions, the Chairman reconvened the Finance meeting.

**TST Update**  
**Presentation**

The Chairman announced the next item on the agenda was the TST update presentation.

Public Works Deputy Director Devri DeToma gave a presentation regarding an update on the Transportation Sales Tax. She began by reviewing the public meetings held throughout the county and the public comments received on the potential projects for the third Transportation Sales Tax.

### PUBLIC MEETINGS

- January 22<sup>nd</sup>, St. John's High School, Johns Island  
≈ 100 attendees
- January 29<sup>th</sup>, West Ashley High School  
≈ 50 attendees
- February 5<sup>th</sup>, James Island Charter High School  
≈ 70 attendees
- February 12<sup>th</sup>, Moultrie Middle School, Mount Pleasant  
≈ 50 attendees
- February 26<sup>th</sup>, North Charleston City Hall  
≈ 40 attendees



Below is the example of the online comment form that the public had the opportunity to complete. The form had a text box for each project and text box at the end for any additional comments.

### ONLINE COMMENT FORM

**3rd Transportation Sales Tax**

**Comment Form**

Please provide your comments on the proposed 3rd Transportation Sales Tax (TST) project. Your comments will be used to inform the Finance Committee's decision on whether to approve the TST project.

**Project Name:**

**Project Number:**

**Project Description:**

**Project Location:**

**Project Status:**

**Project Owner:**

**Project Contact:**

**Project Phone:**

**Project Email:**

**Project Website:**

**Project Address:**

**Project City:**

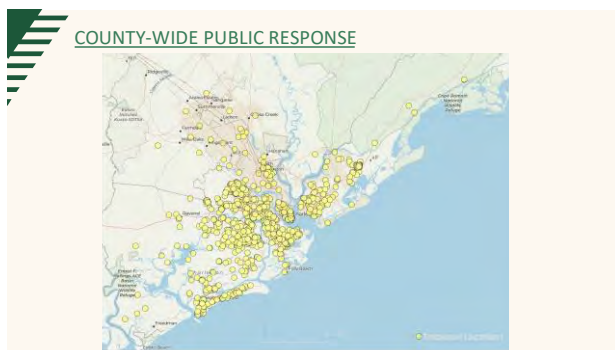
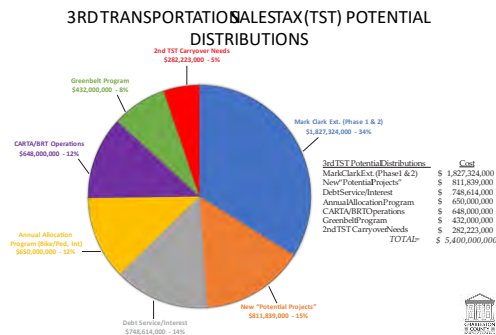
**Project State:**

**Project Zip:**

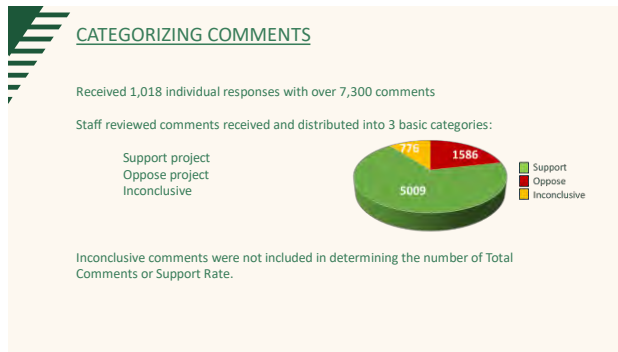
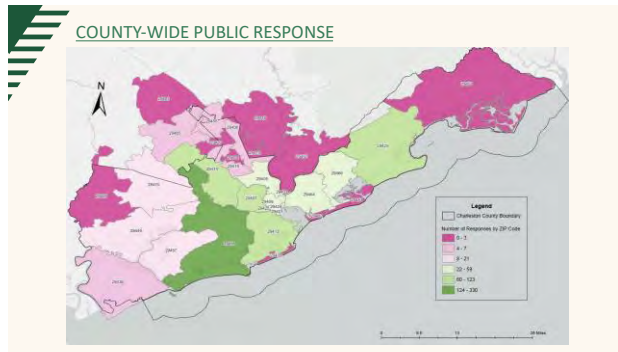
**Project Comments:**

**Project Additional Comments:**

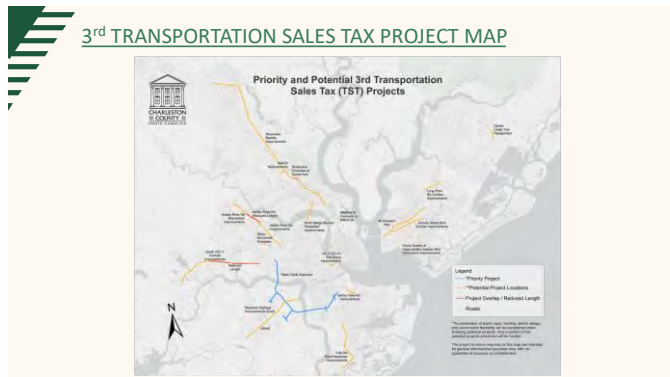
Below is one of the boards that was online and at the public meetings to show the distributions of the 3<sup>rd</sup> Transportation Sales Tax.



Citizens on Johns Island and West Ashley submitted the most public comments.



Below is another board that was shown online and during the public meetings with the project map of where all the projects are within the County.



Below are all the projects is the support rate along with with the total number of comments received and the comments were broken down to whether it was supported, opposed, or inconclusive with an example of each. Also shown for each project is where it is located and a heat map showing where the citizen commenting lived and the type of comment they gave (support, opposed, or inconclusive). All projects received a 50% or higher support rate.





**MALL DRIVE IMPROVEMENTS**

Estimated Cost = \$72,000,000

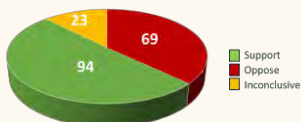
Capacity enhancements along Mall Drive (SC-790) between Lacross Road and Rivers Avenue including bicycle/pedestrian accommodations.

Total Comments Received = 163  
Support Rate = 58%Example Support Comments:

"Build this project", "I agree with this project. The new hospital is coming and with that will be the need to improve access", "YES"

Example Oppose Comments:

"Low priority", "Defer, not a priority issue", "NO NO NO"

Example Inconclusive Comments:

"Why is this a priority?", "Engage with Mall redevelopment entities to help fund this", "There are many trees in the center of rivers avenue, please don't remove them"

**MALL DRIVE IMPROVEMENTS****GLENN MCCONNELL OVERPASS**

Estimated Cost = \$194,000,000

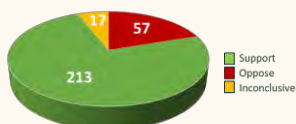
Construct an overpass for eastbound traffic on Glenn McConnell Parkway (SC-461) at intersection with Magwood Drive to improve traffic flow.

Total Comments Received = 270  
Support Rate = 79%Example Support Comments:

"Build it ASAP", "Get it done!" "This is needed especially when the Glenn McConnell improvements are completed"

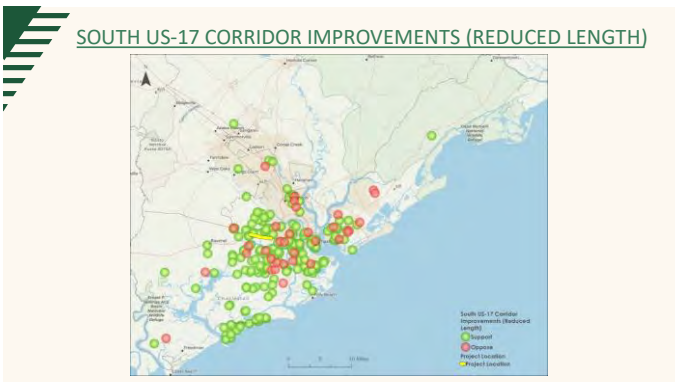
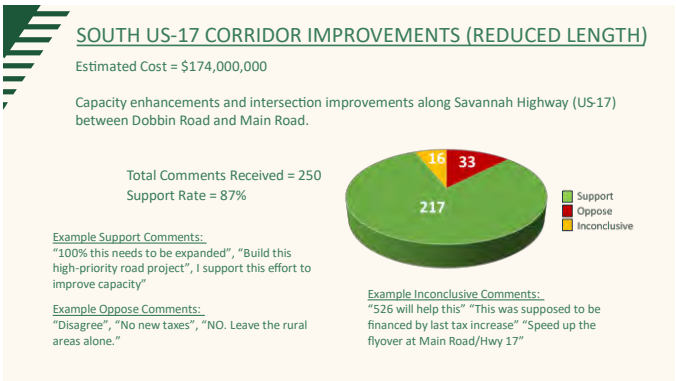
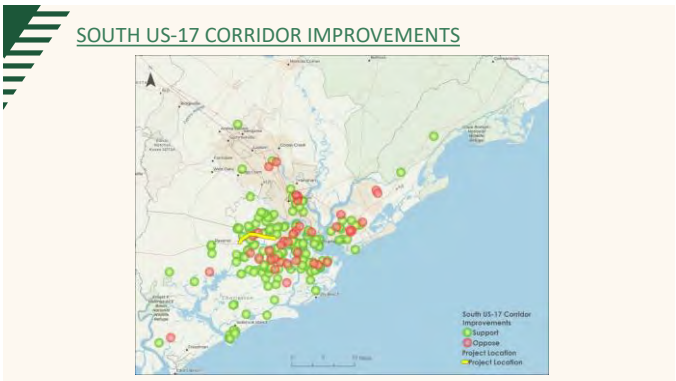
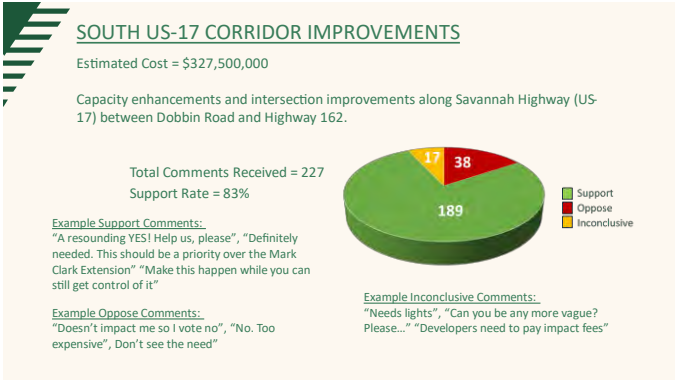
Example Oppose Comments:

"Against", "No, not a priority", "This project should be removed from the project list"

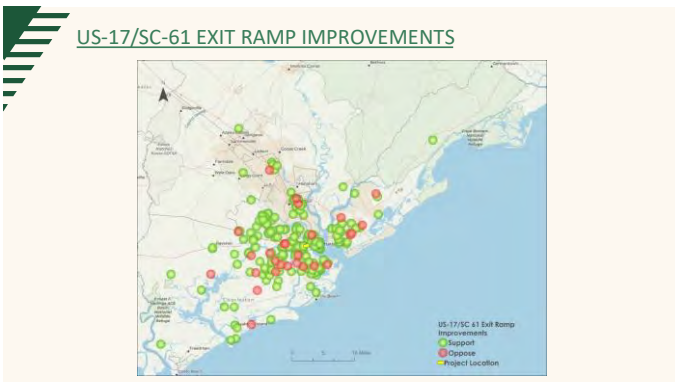
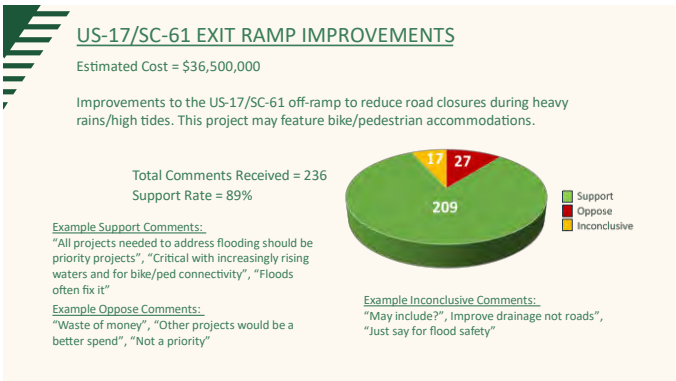
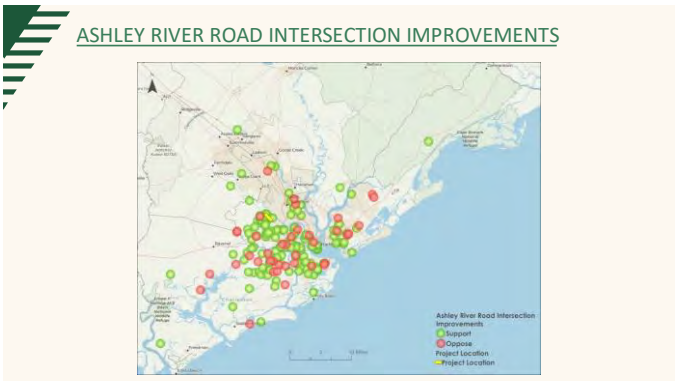
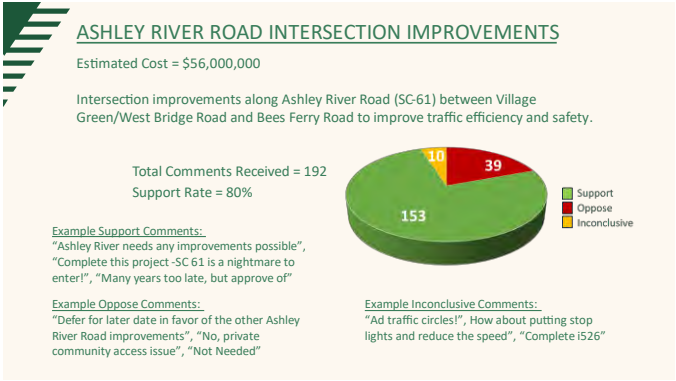
Example Inconclusive Comments:

"How much was just spent on this?", "SCDOT should be paying for this as part of the 526 widening", "This wouldn't have been necessary if people hadn't developed all the swamp land on Bees Ferry"

**GLENN MCCONNELL OVERPASS**







## MEETING STREET OVERPASS AT MILFORD STREET

Estimated Cost = \$65,000,000

Construct a new overpass over the rail line at Meeting Street/Milford Street to improve traffic safety and efficiency.

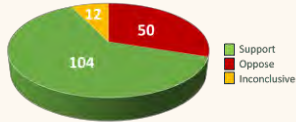
Total Comments Received = 154  
Support Rate = 68%

Example Support Comments:

"Should be prioritized", "Always yes, we see too many accidents and traffic due to cars and trains sharing roads", "This project is very needed"

Example Oppose Comments:

"The costly expense of these overpasses could be better spent elsewhere", "Irrelevant to the rest of us", "The builder and people who moved to this location moved to the condition. Let them pay for the overpass



Example Inconclusive Comments:

"Downtown Charleston has more than enough of our taxpayer money", "Why isn't the state paying for all these rail bridges?", "Split this from the 526 extension"

## MEETING STREET OVERPASS AT MILFORD STREET



## MAYBANK HIGHWAY IMPROVEMENTS (EASTERN PORTION)

Estimated Cost = \$51,550,000

Capacity enhancements to Maybank Highway (SC-700) between River Road and the Stono River Bridge along with bicycle/pedestrian accommodations.

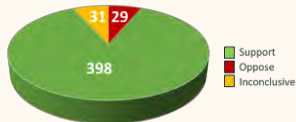
Total Comments Received = 427  
Support Rate = 93%

Example Support Comments:

"Absolutely! This should have happened years ago", "Critical for John's Island", "For the love of GOD, please complete this project"

Example Oppose Comments:

"Drop all the ridiculous bike accommodations",  
"Leave Maybank Highway alone", "No. This should  
be designated a scenic highway with funds diverted  
to complete 526"

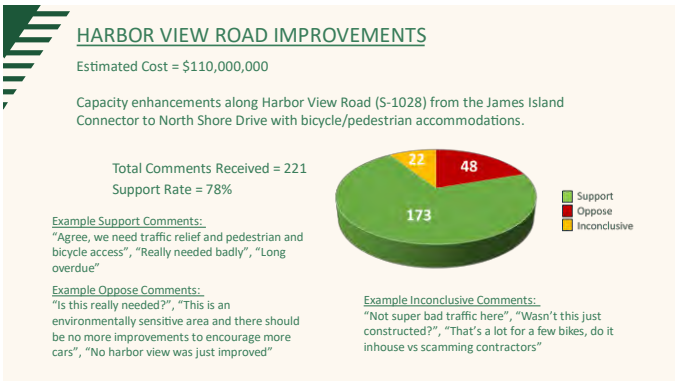
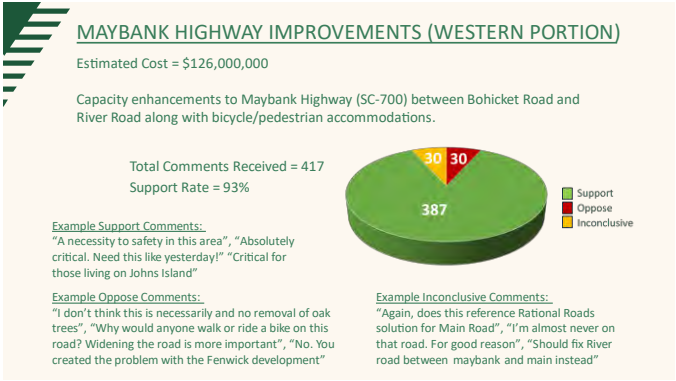


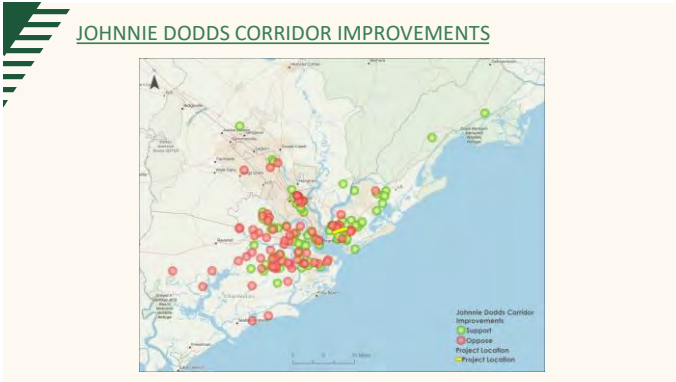
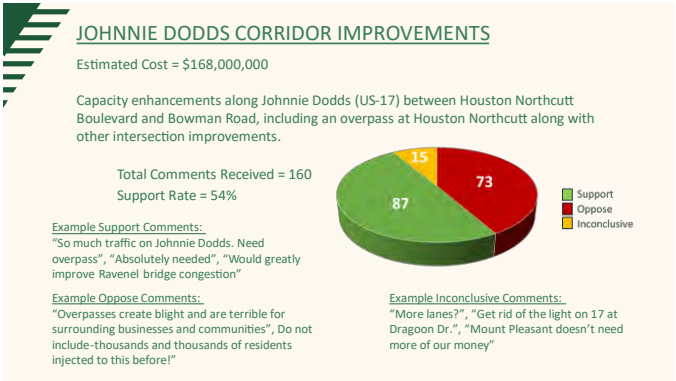
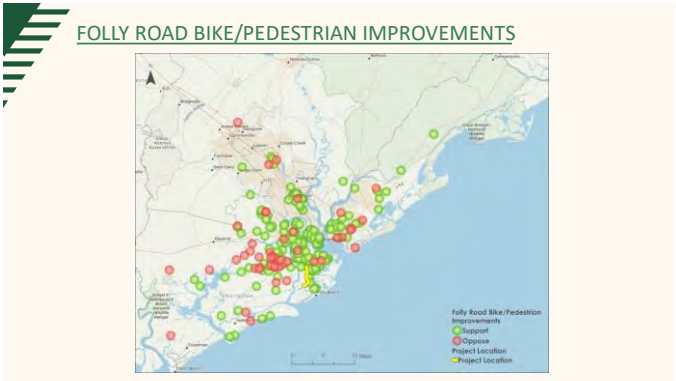
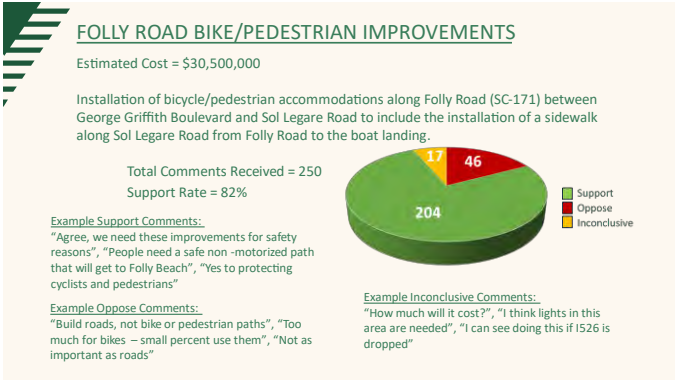
Example Inconclusive Comments:

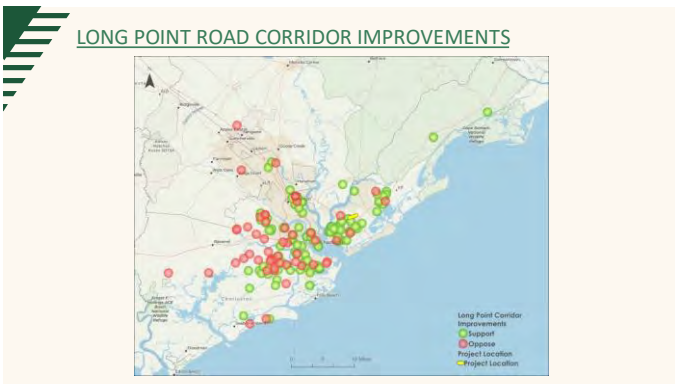
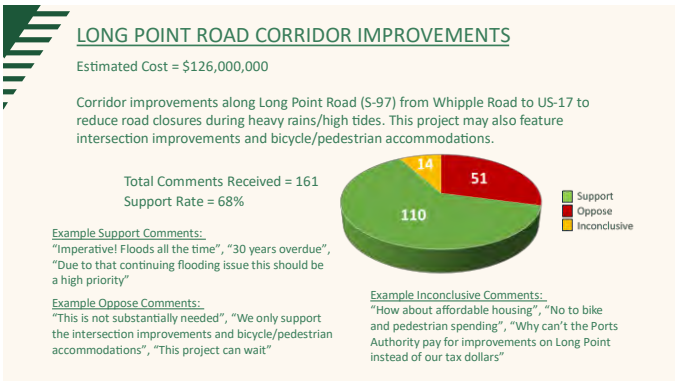
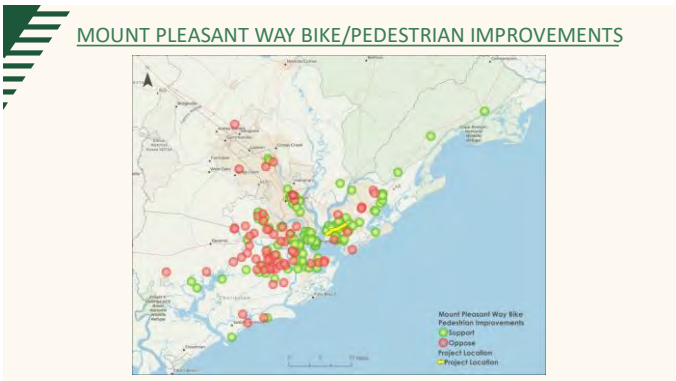
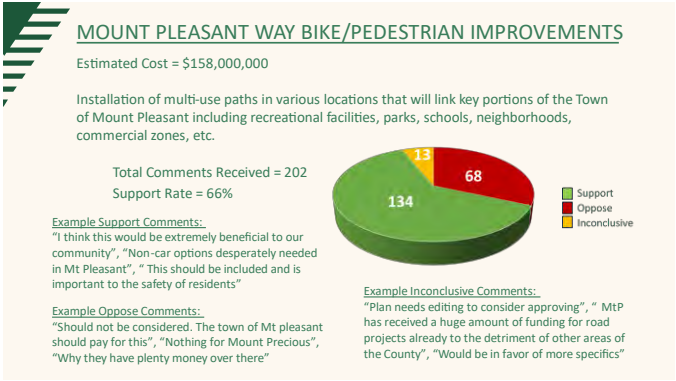
"Last tax was supposed to cover this", This was supposedly included in the 2004 and 2016 referenda. What happened?", "Need a left turn lane for the High School"

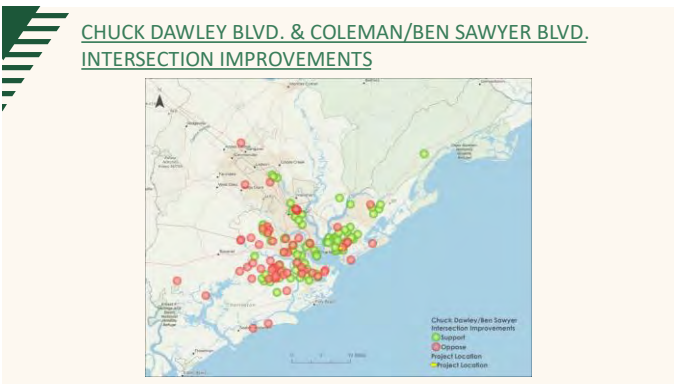
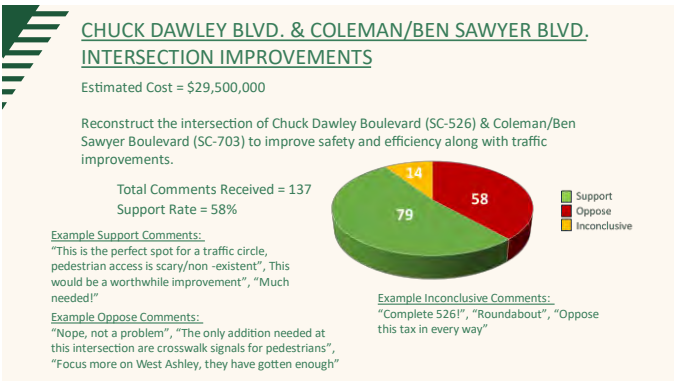
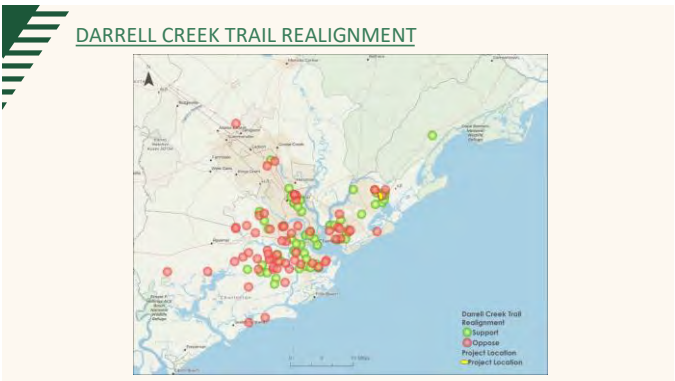
### MAYBANK HIGHWAY IMPROVEMENTS (EASTERN PORTION)

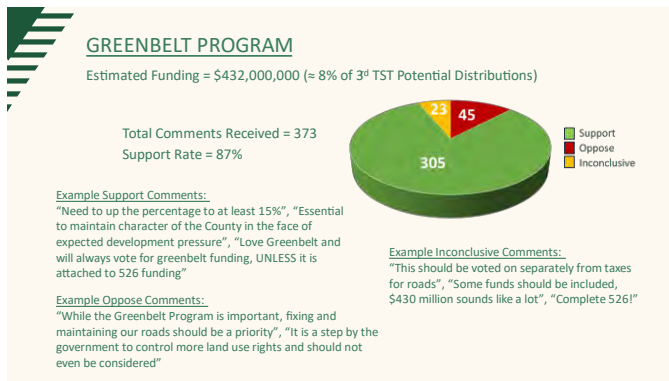
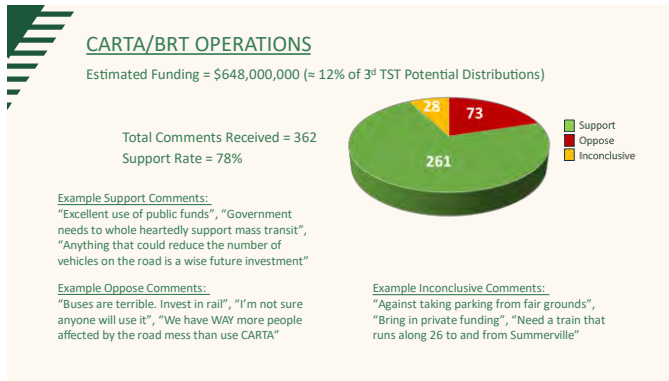




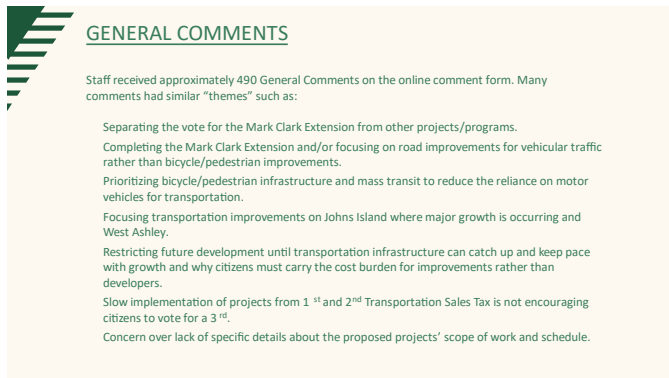








Below are general comments that were common themes that were stated at least 10-15 different times.



To address the comment regarding slow implementation, the County did not bond money for the 2<sup>nd</sup> Transportation Sales Tax. Instead, the "Pay as you Go" approach was used which has saved the County approximately \$225,000,000. To address the comment regarding concern over lack of specific details, the project has to stay broad and open ended stating the problem that is trying to be solved. The project gets more specific as the County starts working through the NEPA process to determine if it will be a widening project or simply adding a turning lane to solve the problem. Ms. DeToma stated that ended her presentation and asked if any members of Council had questions.

Mr. Middleton thanked Ms. DeToma for her presentation and asked if any project included stormwater or drainage issues. Ms. DeToma stated that there were no guidelines with the first Transportation Sales Tax and therefore the County was able to

use these funds for stormwater and drainage issues. Since that time, the Department of Revenue issued guidelines that state that stormwater or a drainage issue must be tied to a transportation project in order to use the funds for that. For example, the Long Point Road project is impassible and therefore funds can be used to improve that intersection. Mr. Middleton asked how we are addressing the stormwater or drainage issues as we move through these projects. Deputy County Administrator of Public Services Steve Thigpen stated they have been working with budget to set aside funds for drainage projects and also creating an inventory and objective criteria to create a ranking system for the order the projects would be completed in the upcoming years. Mr. Middleton asked if that funding would be in the upcoming budget. Mr. Thigpen stated that was his understanding.

Mr. Kobrovsky stated the maps only included people who submitted public comments online or in person and did not necessarily include everyone in the County. He stated he noticed that Mt. Pleasant did not have many responses, but Johns Island and West Ashley had many responses. Ms. DeToma stated that is correct. Johns Island had the most comments of any other zip code with West Ashley being second.

Mr. Middleton asked of the 7300 comments, how many asked for the question of the Mark Clark to be separated. Ms. DeToma stated she would have to go back and count that specifically, but if it was mentioned more than 10-15 times, they listed that as a common theme for general comments.

Mr. Wehrman asked what the next steps were in deciding which projects were a priority to be listed on the referendum. Ms. DeToma stated it is her understanding that the timeline to give third reading was before August. All projects are more than \$811,000,000 so Council will need to prioritize the list of projects.

Mrs. Honeycutt stated it was her understanding that staff was directed to go and collect feedback on these projects and then the elected leaders would decide which projects would be on the referendum. She believes it is a political decision and would encourage councilmembers to collaborate and decide which are the most important to their constituents.

Mr. Middleton asked what the timeline was to collaborate to ensure they met the August deadline to submit the referendum language to the Elections Office. Chairman Sass stated council needs to start collaborating now to see which projects have the most merit.

Mr. Moody stated the municipal leaders need to be included in this decision making because they know which projects are needed most in their communities as well. He believes they should rank the projects in their areas and give Council recommendations.

Mr. Wehrman stated he agrees it is a political decision and they need to start collaborating. While he understands they collected the public opinion on these projects, he would like staff to gather metric information for the projects such as safety improvement, traffic improvement, etc.

Chairman Sass asked Mr. Thigpen what the timeline was to get this back on the agenda. Mr. Thigpen stated in working with the Clerk's Office and Legal Department, the proposed timeline is giving this first reading in late May, second and possible third reading in June, and leaving July as the last opportunity to get third reading, if needed.

Mr. Pryor stated everyone pays a stormwater fee and those funds could be used to fund the stormwater and drainage projects. He asked the Administrator to provide Council with how much money is collected for stormwater each year.

Mr. Boykin asked if all the projects came from the municipalities. Ms. DeToma stated yes. Staff reached out to the municipalities and asked them to provide a list of projects over \$5 million that they would like considered for funding on the 3<sup>rd</sup> Transportation Sales Tax.

Mr. Middleton suggested Council hold a workshop to dig deeper into developing the list of projects.

Mr. Darby asked if the question of the Mark Clark Extension was going to be separated. Mrs. Honeycutt stated that is a decision of this Council. Her position is not pitting one part of the county against the other. It is all or nothing if the county wants Greenbelt, sidewalk improvements, transportation improvements. The county paid for the Arthur Ravenel Bridge and is still paying for it. For one part of the county to say we do not want something on the other side of the county is not how this council should govern so her position is that it is one question. Mr. Darby stated that he appreciates Mrs. Honeycutt's position and would never pit one councilmember against another, or one citizen against another, but this is politics. Other councilmembers want it as a separate question, and it will come down to the vote. Mr. Boykin stated it was put out to the public that Mark Clark Extension is the only priority project, but he agrees with Mr. Darby that it will come down to the up or down vote of this council as to the form of the referendum. Mr. Wehrman stated it will be a political decision. Looking at the map, it does not look like it is one side of the county versus the other and he believes it is notable that the Mark Clark Extension is the only project the state says the county has to list on the referendum. Each councilmember has their own opinion on this, including which other projects to include so there are many things that still need to be worked through and decided on soon. Mr. Middleton stated for the record, he supports one question. Mr. Kobrovsky stated for the record, he supports bifurcating it the question, so the sales tax is divided more equally. He believes we are holding hostage the greenbelt and other projects for one project, and he thinks that is unfair. If it does not pass as one question, what will we do to pay for these other projects. Mr. Pryor stated everyone wants their projects done first. If this referendum passes and the majority of the people say they want this, it is time for this council to move on. If we did not have the Post and Courier telling people to fight every project and conservation groups suing us, Mark Clark Extension would have been built many, many years ago. But when we keep having to fight, the price keeps raising. However, these groups will be the first people to drive over that bridge when it is finally built to save time. He has always said if you vote against Mark Clark Extension, then drive all the way around. He represents everyone in the county and we, as

councilmembers, need to make decisions based on the best interest of the county as a whole and not just what the constituents in our district want. Mr. Moody stated he supported one question as well. Either you are all in for roads, greenbelt, mass transit, bike and pedestrian or you are not. To Mr. Kobrovsky's point, if it fails, it fails, if it passes, it passes. He stated he agrees with Mr. Pryor's points. Mr. Darby stated just because everyone has a different perspective does not mean the other person is wrong. He believes Mark Clark Extension will be at capacity after it is built and the county should be thinking more long term like as in bus rails.

Mr. Wehrman stated he is glad to hear all the political questions because they are all things councilmembers should be thinking about as in whether it will be one question or two, which projects will move forward, whether enough funding is in there for CARTA. He likes the idea of a workshop and looks forward to working with everyone on this.

Mr. Kobrovsky stated he appreciates everyone's passion on this. He believes in the case of East Cooper that it is not just about we already have our roads, so we are not voting for your roads. It is also about all these new roads brought more people than we have capacity for and transformed East Cooper in a way that it will become like suburban Atlanta or Charlotte. He believes that people are factoring that into this decision as well.

The Chairman thanked everyone for the robust discussion on the 3<sup>rd</sup> Transportation Sales Tax and announced the next item on the agenda was the Consent Agenda. Mr. Boykin moved to approve the Consent Agenda, seconded by Mr. Pryor, which carried.

The Consent Agenda items are as follows:

Item A:

**State Homeland  
Security Program  
(SHSP) Grant  
Application  
(BVRE)**

**Request to  
Approve**

County Administrator Bill Tuten and Board of Election and Voter Registration Executive Director Isaac D Cramer provided a report regarding a request to approve the State Homeland Security Program (SHSP) Grant Application (BVRE). It was stated that the Board of Voter Registration & Elections Office (BVRE) seeks approval to apply, and accept if awarded, the South Carolina State Homeland Security Program Grant (SHSP) in the amount of \$342,541.78 with the understanding that there are no FTE's for the period of October 1, 2024 through September 30, 2025. The SHSP grant assists state and local efforts in preventing, protecting against, mitigating, responding to, and recovering from threats. This grant will provide BVRE the ability to have resources required for enhancing security and training.

The Director of Voter Registration and Elections recommended that Council allow the Board of Voter Registration & Elections Office to apply, and accept if awarded, South Carolina State Homeland Security Program Grant (SHSP) in the amount of \$342,541.78 with the understanding that there are no FTE's for the period of October 1, 2024 through September 30, 2025.

Mrs. Honeycutt stated security is one of the top services the county provides and this is an excellent example of applying for grant funding to ensure safe and fair elections which is fundamental. She commended Mr. Cramer and the Public Safety Directorate for going after this grant that has no match or long term obligations.

**SCDPS FY 2025  
In-Car Video  
Camera Grant**

**Request to  
Approve**

**Item B:**

County Administrator Bill Tuten and Sheriff Kristin Graziano provided a report regarding a request to approve the SCDPS FY 2025 In-Car Video Camera Grant. It was stated that the In Car Video Cameras (ICVC's) are used in the everyday operations of Patrol Deputies to record evidence of moving violations and provide the capability to carry that evidence to the courtroom. The benefits of using this technology include:

- Upon the observation of a traffic or moving violation, the ICVC can be used to record it using a pre-triggered recording. This crucial feature allows for the recording of activity, either by the activation of emergency lights or by pressing the record button, but can also be configured to capture and save the 30 seconds prior to that activation request. This enables the violation to be captured in the final recording along with the ensuing traffic stop interaction.
- ICVCs are also often used as evidence in cases of violator complaints against the Patrol Deputy who detained them. Whether for an aggressive demeanor or for an alleged unlawful stop, the device can help provide evidence of the interaction between the violator and the Deputy Sheriff.

Currently, the Charleston County Sheriff's Office utilizes approximately 170 ICVC's. Of that number, approximately 30 are older and considered to be technologically obsolete. In order to continue meeting the County's goals of reliable video capture and recording, we are requesting the replacement of 30 ICVC's. Included in the replacement of these systems is the storage of media and applicable software to support evidence retrieval and viewing capabilities. With this support, the end-user will be able to search, view, and ultimately capture video evidence needed for a variety of reasons outside of the traffic stop and/or incident.

The Sheriff recommended that Council approve the application for and acceptance of \$202,380 from the SC Department of Public Safety's FY25 In-Car Video Camera Grant program for the purchase of 30 in-car cameras, related accessories, and storage with the understanding that:

- There are no FTEs requested in this grant.
- No match is required.
- The grant period will run from January 1, 2024-December 31, 2024.

**Item C:**

**E. Northside  
Drive Sidewalk  
Phase II and  
Northwoods Blvd  
Sidewalk CTC**

**Award of  
Contract**

County Administrator Bill Tuten and Procurement Director Barrett J. Tolbert provided a report regarding an award of contract for the E. Northside Drive Sidewalk Phase II and Northwoods Blvd Sidewalk CTC. It was stated that the E. Northside Drive Sidewalk Phase II and Northwoods Blvd Sidewalk CTC projects were initially advertised together with an option to only award one or the other project depending on bids received. Bids for the Northwoods Blvd Sidewalk project exceeded available funds and Public Works staff decided not to award that project. However, the lowest responsive and responsible bidder agreed to perform the work only on the Northside Drive Sidewalk project and Public Works has requested to move forward with that award.

The E. Northside Drive Sidewalk Phase II project shall consist of the installation of approximately 520 feet of new 5-foot wide concrete sidewalk and approximately 490 feet of 15" smooth wall pipe, and 40 feet of 18" smooth wall pipe, as well as five type 16 catch basins and one type 18 catch basin on Northside Drive. The specific project location on Northside Drive is from just south of North Forest Drive near 7555 Northside

Drive to a location near 7477 Northside Drive where it will connect to an existing sidewalk. The work shall also include, but is not limited to, the relocation of approximately 285 feet of 8-inch Ductile Iron Pipe (DIP) Water Main owned by Charleston Water System, milling & repaving asphalt roadway, milling and repaving asphalt & concrete driveways, road striping, video pipe inspection of drainage for both phases of the project, as well as erosion and sediment control and traffic control. This project is the second phase of the Northside Drive sidewalk project, phase one of the project was completed by others.

Bids were received in accordance with the terms and conditions of Invitation for Bid No. 5909-24C. State "C" Fund regulations do not allow Small Business Enterprise (SBE).

| Bidder                                                                                               | Total Bid Price | MWDBE % |
|------------------------------------------------------------------------------------------------------|-----------------|---------|
| First Construction Management, LLC<br>Hanahan, South Carolina 29410<br>Principal: Roger Holcombe     | \$480,643.00    | 0.86%   |
| IPW Construction Group, LLC<br>North Charleston, South Carolina 29418<br>Principal: Bryan H. Rembert | \$1,065,430.50  | 55.82%  |

Department Head recommended that Council, as an agent for CTC, authorize award of contract for the E. Northside Drive Sidewalk Phase II CTC project to First Construction Management, LLC, the lowest responsive and responsible bidder, in the amount of \$480,643.00 with the understanding that the funds are available in the State "C" Fund for road improvements.

Item D:

Energy Efficiency  
& Conservation  
Block Grant  
Electric Truck  
Grant  
  
Request to  
Accept

County Administrator Bill Tuten and Deputy County Administrator for General Services Walter L. Smalls provided a report regarding a request to accept the Energy Efficiency & Conservation Block Grant Electric Truck Grant. It was stated that the SC Energy Office (SCEO) received formula funding through the US Department of Energy's (US DOE) Energy Efficiency and Conservation Block Grant (EECBG) Program to award subgrants to projects and programs that improve energy efficiency, cut carbon emissions, and reduce energy use. Charleston County applied for \$53,865 to pay for a 2024 Ford F150 Lightning 4x4 Crew Cab Pick-Up with Pro Series Trim extended range. This vehicle will be assigned to the Building Services Department initially and then reassign the truck to maximize staff exposure. The introduction of an electric truck, especially one with extended range, presents an opportunity for staff to experience the viability of electric vehicles in meeting their daily operational needs.

The Deputy County Administrator recommended that Council accept \$53,865 from the SC Energy Office (SCEO) in formula funding through the US Department of Energy's (US DOE) Energy Efficiency and Conservation Block Grant (EECBG) Program grant funds for the purchase of an electric truck with the understanding that:

- No match required.
- Grant Period: Performance period up to May 15, 2026.

The previous item was the last item on the Consent Agenda.

Mr. Middleton stated this becomes an example of what kind of initiatives that would fall under the Climate Action Plan whenever it is adopted. It still would always come to council to be approved. He commended the county's sustainability officer for finding these grants and encouraged councilmembers to provide Ms. Gerstein with their comments on the Climate Action Plan so it could be brought back for discussion and action.

The Chairman announced the next item on the agenda was the St. John's Fire District Bonds. Mr. Pryor moved to approve the recommendations, seconded by Mr. Boykin, and carried.

Item A:

The St. John's Fire District provided a report regarding a request to adopt a resolution calling for a public hearing. It was stated that the district is seeking authorization from County Council to issue general obligation bonds to provide funds to pay the costs of acquiring and equipping fire engines, tenders, and a tower vehicle, the costs of constructing, improving, and equipping fire station facilities, and the costs of issuance of such bonds.

All bond proceeds must be used to provide for capital projects as set forth in the proposed authorizing ordinance.

A millage increase is anticipated to accommodate the new debt service and is due to significant inflation in both the price of fire apparatus and construction costs. The District, in consultation with its financial advisors, estimates a millage increase of 1.5 mills will be necessary.

The South Carolina Code requires County Council to hold a public hearing on the question of the issuance of the bonds. Following the hearing, the District requests that County Council enact an ordinance finding whether and to what extent the bonds should be issued and authorizing the governing body of the District to issue the bonds.

The St. John's Fire District recommended that Council adopt a resolution authorizing a public hearing and notice thereof.

The resolution is as follows:

**A RESOLUTION  
CALLING FOR A PUBLIC HEARING TO BE HELD UPON THE QUESTION OF  
THE ISSUANCE OF NOT EXCEEDING \$24,500,000 AGGREGATE PRINCIPAL  
AMOUNT OF GENERAL OBLIGATION BONDS OF THE ST. JOHN'S FIRE  
DISTRICT, SOUTH CAROLINA; PROVIDING FOR THE PUBLICATION OF THE  
NOTICE OF SUCH PUBLIC HEARING; AND OTHER MATTERS RELATING  
THERETO.**

**BE IT RESOLVED**, by the County Council of Charleston County (the "**County Council**"), the governing body of Charleston County, South Carolina (the "**County**"), in meeting duly assembled:

**Section 1 Findings of Fact.** Incident to the adoption of this resolution (this "**Resolution**"), the County Council has made the following findings of fact:

**Resolution  
Calling for Public  
Hearing  
  
Request to Adopt**

(a) The County Council is empowered by Title 6, Chapter 11, Article 5 of the Code of Laws of South Carolina 1976, as amended (the “**Enabling Act**”), to authorize the governing body of any special purpose district created prior to March 7, 1973, and located in whole or in part within the County, to issue general obligation bonds of such special purpose district in order to provide funds to be used in the furtherance of any power or function committed to such special purpose district and in effect on March 7, 1973.

(b) The St. John’s Fire District, South Carolina (the “**District**”), is a special purpose district located within the County created prior to March 7, 1973, having been created by Act No. 369 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina for the year 1959, as amended, and is authorized, *inter alia*, to provide fire service within its boundaries.

(c) In carrying out its functions and duties, the St. John’s Fire Commission, the governing body of the District (the “**Commission**”), has petitioned the County Council to authorize the issuance of not exceeding \$24,500,000 aggregate principal amount of general obligation bonds of the District (the “**Bonds**”) in order to provide funds to defray: (i) the costs of (A) acquiring and equipping fire apparatus, to include, without limitation, two fire engines, two tenders, and a tower vehicle, (B) designing, constructing, equipping, renovating, improving, and refurbishing fire station facilities, and (C) purchasing or rehabilitating real property and capital assets used or useful in furtherance of the operation of the District ((A) thorough (C), the “**Project**”), and (ii) the costs of issuance of the Bonds. The Commission estimates that the cost of the Project and the costs of issuance of the Bonds, will be an amount not exceeding \$24,500,000.

(d) The Commission will make a final determination of the scope and description of the Project prior to its adoption of a resolution authorizing the issuance of the Bonds, provided that the amount of the Bonds shall not exceed \$24,500,000 and the scope shall not exceed that which is described in subsection (c) hereinabove.

(e) The County Council is now minded to proceed in accordance with the provisions of the Enabling Act with respect to the issuance of the Bonds.

**Section 2 Ordering of Public Hearing.** The County Council finds that it may be in the interest of the District to raise moneys for the purpose of providing for the Project, and in that connection hereby orders a public hearing to be held upon the question of the issuance of the Bonds (the “**Public Hearing**”).

### **Section 3 Time and Place of Hearing.**

(a) The Public Hearing shall be held on the question of the issuance of the Bonds in the Charleston County Council Chambers in the Lonnie Hamilton III Public Services Building, located at 4045 Bridge View Drive, 2<sup>nd</sup> Floor, North Charleston, South Carolina 29045, on May 21, 2024 at 6:30 p.m., and the notice of the Public Hearing in the form attached hereto as Exhibit A shall be published once a week for three successive weeks in *The Post and Courier*, which is a newspaper of general circulation in the County. The first such publication shall not be less than 16 days prior to the hearing date.

(b) The Clerk to County Council is hereby authorized to approve changes to the notice of the Public Hearing attached hereto as Exhibit A, prior to the initial publication thereof, as may be necessary or convenient to incorporate any special procedures or instructions for electronic or virtual meetings or public hearings.

**Section 4 Hearing Shall be Public.** The Public Hearing shall be conducted publicly at the time and place above stated and both proponents and opponents of the proposed issuance of the Bonds shall be given a full opportunity to be heard in person or by counsel.

**Section 5 Subsequent Finding and Determination.** Following the Public Hearing, the County Council shall determine whether and to what extent the Bonds should be issued.

**Section 6 Further Action.** The Chairman of the County Council and the proper County officials are hereby authorized and empowered to take all necessary action to provide for the holding of the Public Hearing in accordance with the provisions of the Enabling Act.

DONE AT NORTH CHARLESTON, SOUTH CAROLINA, this 18th day of April 2024.

**CHARLESTON COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Herbert Ravenel Sass, III, Chairman of County Council

Attest:

\_\_\_\_\_  
Kristen L. Salisbury, Clerk of County Council

Exhibit A

### **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN THAT the County Council of Charleston County (hereinafter called the "County Council"), which is the governing body of Charleston County, South Carolina (the "County"), is considering whether St. John's Fire District, South Carolina (the "District") shall be authorized to issue not exceeding \$24,500,000 aggregate principal amount of general obligation bonds of the District (the "Bonds"). On April 18, 2024, the County Council adopted a resolution authorizing the holding of a public hearing on such matter. As required by Section 6-11-840 of the Code of Laws of South Carolina 1976, as amended, you are advised of the following:

1. A public hearing will be held on the question of the issuance of the Bonds in the Charleston County Council Chambers in the Lonnie Hamilton III Public Services Building, located at 4045 Bridge View Drive, 2<sup>nd</sup> Floor, North Charleston, South Carolina 29045, on May 21, 2024 at 6:30 p.m.
2. The District has requested authorization to issue the Bonds in order to provide funds to defray: (i) the costs of (A) acquiring and equipping fire apparatus, to include, without limitation, two fire engines, a tender and a tower vehicle, (B) designing,

constructing, renovating, equipping, and refurbishing fire station facilities, and (C) purchasing or rehabilitating real property and capital assets used or useful in furtherance of the operation of the District ((A) thorough (C), the "Project"); and (ii) the costs of issuance of the Bonds. The County has been advised by the District that the issuance of the Bonds, through the Project financed thereby, is intended to address demand for fire service generated by development in the District, to enhance the maintenance capability of the District, and to replace depreciated apparatus and equipment necessary to maintain service capability.

3. The District estimates that the costs of the Project and the costs of issuance of the Bonds will not exceed \$24,500,000.

4. Therefore, the County Council has ordered a public hearing to be held upon the question of the issuance of the Bonds in accordance with the provisions of Title 6, Chapter 11, Article 5 of the Code of Laws of South Carolina 1976, as amended (the "Enabling Act").

5. For the payment of principal and interest on the Bonds as they respectively mature and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the District shall be irrevocably pledged, and there shall be levied on all taxable property in the District ad valorem taxes sufficient in amount to pay said principal and interest on the Bonds.

6. The aforesaid hearing shall be conducted publicly and both proponents and opponents of the proposed action shall be given full opportunity to be heard in person or by counsel. Public comments, written and oral, are invited. Those wishing to provide written public comments for the public hearing should email comments to public-comments@charlestoncounty.org by 12:00 p.m. on May 21, 2024. Following the hearing, the County Council shall, by ordinance, make a finding as to whether and to what extent the Bonds should be issued and may thereupon authorize the governing body of the District to issue the Bonds to the extent it shall be found necessary.

7. The District is located within the County. The Enabling Act provides that bonds issued thereunder must be authorized by the governing body of the County wherein the District is located.

#### COUNTY COUNCIL OF CHARLESTON COUNTY

##### Item B:

##### Bond Ordinance

The St. John's Fire District recommended that Council enact an ordinance authorizing the district to issue bonds in an amount not to exceed \$24,500,000.

##### Request to Approve

There being no further business to come before the Body, the Chairman declared the meeting to be adjourned.

Kristen H. Wurster  
Deputy Clerk of Council