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THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Honorable William H. Seals, Jr., Circuit Court Judge

Appellate Case No. 2019-001134

Case No. 2019-CP-26-01732

City of Myrtle Beach, For Itself and Class of Similarly Situated Plaintiffs, ... Respondent,

v.

Horry County, ... Appellant.

RECORD ON APPEAL
VOL I of IV

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STATE OF SOUTH CAROLINA COUNTY OF HORRY City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Plaintiffs, vs. Horry County, Defendant.	IN THE COURT OF COMMON PLEAS CASE NO.: 2019-CP-26-1732 **ORDER FOR CASE ASSIGNMENT TO THE BUSINESS COURT**

It is hereby ordered that assignment to the Business Court for Horry County is **granted**. It is further ordered that exclusive jurisdiction over this case be assigned to the **Honorable William H. Seals, Jr.** to hear and handle all pretrial motions and other matters pertaining to this case.

And it is SO ORDERED.

Charleston, South Carolina

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Horry Common Pleas

Case Caption: Myrtle Beach City Of VS Horry County Of

Case Number: 2019CP2601732

Type: Order/Case Assignment to Business Court Approved

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Horry
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP2601732

Myrtle Beach City Of
PLAINTIFF(S)

Horry County Of
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

Plaintiff's Motion/Preliminary Injunction
Defendant's Motion/Injunction
Formal Orders to Follow

ORDER INFORMATION

This order ☐ ends ☑ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/18/2019 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

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Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Horry Common Pleas

Case Caption: Myrtle Beach City Of VS Horry County Of

Case Number: 2019CP2601732

Type: Order/Electronic Form 4

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

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STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Plaintiff, vs. Horry County, Defendant.	)	CIVIL ACTION NO. 2019-CP-26-01732 **ORDER ON MOTIONS FOR PRELIMINARY INJUNCTION**

This matter is before the Court on the separate motions of Plaintiff City of Myrtle Beach ("City") and Defendant Horry County ("County") for a preliminary injunction. A hearing on these motions was held on June 14, 2019, and, after having fully considered the motions, memoranda of law, the related affidavits in support of and opposing the motions, the relevant case law, statutes, and constitutional provisions, and the arguments of counsel, the Court GRANTS the City's motion and DENIES the County's motion for the reasons set forth below.

FACTUAL/PROCEDURAL BACKGROUND

On October 15, 1996, the Horry County Council ("County Council") adopted Ordinance 105-96. The purpose of this ordinance was to implement the recommendations made by the Road Improvement and Development Effort (RIDE) Committee, which the South Carolina Department of Transportation formed at Governor Beasley's direction, regarding transportation infrastructure needs and improvements for the County and the various methods to fund them ("RIDE Report"). One such funding mechanism was a local hospitality fee recommended by the County administrator that was projected to be collected for twenty years.

In pertinent part, Ordinance 105-96 recognized that "[c]onsiderable time and effort was expended by the Governor's RIDE Committee to establish a new plan and a new timetable" to

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address "the area's road problems," that "past efforts to institute a local option sales tax" to provide local funding for road improvements had failed, and that "current law allows local government to levy reasonable and necessary fees to provide needed infrastructure." To that end, Ordinance 105-96 imposed a 1.5% uniform service charge on the sales of accommodations, prepared food and beverage, and admissions within the entirety of the County, including within the limits of municipalities located within the County ("Hospitality Fee").[1] The ordinance mandated that Hospitality Fee revenues "shall be deposited into a Road Fund which will be used to implement a comprehensive road plan adopted by the County ***in concert with the municipalities of the County***" ("Fee Use Provision") (emphasis added). It further provided that the Hospitality Fee would take effect on January 1, 1997, and would terminate twenty years later, *i.e.*, on January 1, 2017 ("Sunset Provision"), assuming needed State funding was obtained.

Prior to the effective date of Ordinance 105-96, each municipality in Horry County adopted resolutions providing consent to the imposition of the Hospitality Fee within their respective corporate limits and recognizing that the RIDE Report presented a plan that "will provide substantial traffic relief and require participation in the funding package by the citizens of Horry County, ***as outlined by the proposed implementation of a 1.5% hospitality fee for a period of up to 20 years in partnership with the State of South Carolina***." Each municipality further resolved to "strongly and unanimously support the RIDE Committee Report to Governor David M. Beasley" and "***urge[d] Horry County Council to enact expeditiously the necessary ordinances to implement the RIDE Committee report.***"

[1] Ordinance 105-96 also imposed an additional 1.0% uniform service charge (for a total of 2.5%) on the same transactions in the unincorporated portions of Horry County. A later amendment to Ordinance 105-96 added a 2.5% uniform service charge on rental cars in all areas of the County. The County also imposes a 0.5% accommodations tax in its unincorporated areas. The City has not challenged these fees or this tax.

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The County applied for the necessary State funding by way of a loan from the State Transportation Infrastructure Bank ("SIB") in October 1997, with a revised application submitted in November 1997. Both applications referred to the 1.5% uniform service charge in Ordinance 105-96 as the source of local funding for projects under the RIDE Report. Shortly before the County's submission of its revised application, County Council adopted Resolution No. 224-97 wherein the County represented that it passed Ordinance 105-96 "to collect a Hospitality Fee to pay for road construction pursuant to the RIDE Plan," "reaffirm[ed] its support for the RIDE Plan," and "endorse[d] and approve[d]" the SIB application.

Three subsequent amendments to Ordinance 105-96 are asserted by the County to be relevant to these motions. First, on April 20, 2004, County Council adopted Ordinance 11-04 which purported to "extend[]" the Hospitality Fee "for an additional period ***not to exceed*** five (5) years." (emphasis added). The stated purpose of this extension was to allow extra time, if needed, for the County to re-pay its SIB loans. Ordinance 11-04 was not codified in the County's Code of Ordinances. Instead, it was only referenced in an Editor's Note to Section 19-6, where the other amendments to Ordinance 105-96 were codified. The City did not consent to this ordinance, and it appears that no other Horry County municipality did either.

On December 6, 2016, County Council adopted Ordinance 93-16. In pertinent part, this ordinance amended the Sunset Provision to state that the Hospitality Fee "will terminate on January 1, 2022." (emphasis added). While Ordinance 93-16 retained the language that Hospitality Fee revenues are to be used to implement "a comprehensive road plan adopted by the County in concert with the municipalities," and appears to broaden the Fee Use Provision to allow for these funds to be spent on seven categories of expenses, only one of which was roads and none of which were limited to the RIDE Report's identified projects. Shortly thereafter, it

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appears that the County Council adopted Ordinance 32-17 to remove the Sunset Provision altogether. Two resolutions passed by County Council, R-82-18 and R-83-18, admit that County Council "passed Ordinance 93-16 and 32-17 . . . to extend [the Hospitality Fee's] imposition following the repayment of loans due the State Transportation Infrastructure Bank." Via Resolution R-82-18, County Council expressed its intention to use continued Hospitality Fee collections on "other major road projects" and thereby dedicated a portion of the revenues to the Interstate 73 ("I-73") project. I-73 is not a project proposed by the RIDE Report. To resolve any discrepancy in the revised Fee Use Provision, Resolution R-84-18 "direct[ed] staff to draft an ordinance amending Section 19-6(h) of the Horry County Code of Ordinances," which contains the "comprehensive road plan" restriction, "to allow the 1.5% hospitality fee for all eligible uses under applicable law, as set forth in Section 19-6(j)," the section with the seven categories of approved expenses.[2] It appears that no such ordinance has, however, been adopted by the County.

On March 7, 2019, the City adopted Ordinance 2019-22, which increased its existing local accommodations tax from 0.5% to 3%, the maximum allowed by S.C. Code Ann. § 6-1-540. That same day, it also adopted Ordinance 2019-23 to impose a 2% hospitality tax, which also is the maximum rate S.C. Code Ann. § 6-1-740 permits. These ordinances (the "Local Tax Ordinances") go into effect July 1, 2019.

The City brought this lawsuit on March 20, 2019, individually and on behalf of a class of all similarly situated plaintiffs who have paid the Hospitality Fee since January 1, 2017 ("Class Members"). The lawsuit primarily seeks declaratory and injunctive relief, as well as the imposition of a constructive trust and damages for unjust enrichment. The County filed its

[2] A third resolution adopted by the County Council on April 2, 2019, specifically R-36-19, states that the loans from the SIB were repaid on February 15, 2019, and that the net balance in the Road Fund created by Ordinance 105-96 after that repayment was $9,681,738.

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answer and counterclaims on April 19. It asserted one counterclaim for attorneys' fees and costs, and one for promissory estoppel. The City moved to preliminarily enjoin the County's continued imposition of the Hospitality Fee pursuant to the amendments to Ordinance 105-96 on May 3, and the County moved to preliminarily enjoin the Local Tax Ordinances on May 14.

LAW/ANALYSIS

Each party seeks to enjoin the actions of a governmental entity. Therefore, each must satisfy five elements to receive injunctive relief: (1) likelihood of success on the merits; (2) irreparable harm if an injunction is not granted: (3) an inadequate remedy at law; (4) an injunction is reasonably necessary to protect its legal rights in the pending litigation; and (5) the opposing party acted in an arbitrary, capricious, and oppressive manner. *See Richland Cnty. v. S.C. Dep't of Revenue*, 422 S.C. 292, 310, 811 S.E.2d 758, 767 (2018); *Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 908 (2004); *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 50-51, 674 S.E.2d 505, 508 (Ct. App. 2009), *modified on other grounds by Poynter Invs., Inc. v. Century Builders of Piedmont, Inc.*, 387 S.C. 583, 587, 694 S.E.2d 15, 17 (2010). For the reasons set forth below, the Court finds that the City has satisfied all of these elements but that the County has satisfied none.

A. The City's Motion for Temporary Injunctive Relief

1. The City Has Demonstrated a Likelihood of Success on the Merits.

This Court examines the merits of the underlying claims "only to the extent necessary to determine whether [the City] has made a sufficient prima facia showing of entitlement to relief." *Compton v. S.C. Dept. of Corrs.*, 392 S.C. 361, 367, 709 S.E.2d 639, 642 (2011). A party need not "prove an absolute legal right;" it need only "present a reasonable question as to the existence of such a right." *AJG Holdings*, 382 S.C. at 51, 674 S.E.2d at 509.

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The City argues that the County could not extend the Sunset Provision or expend funds for purposes other than those provided in the Fee Use Provision of Ordinance 105-96 without consent of the City and the other municipalities within Horry County.[3] The narrow question presented is thus whether the County may unilaterally extend the time and scope of a previously consented-to uniform service charge imposed within municipal limits without the further consent of the municipality. The Court finds the City has demonstrated a likelihood of success on the merits of its argument that its consent is required in these circumstances.

First, the text of Ordinance 105-96 and the parties' actions contemporaneous with its passage tends to demonstrate that municipal consent is required. The ordinance allowed only for the collection of a fee "which will be used to implement a comprehensive road plan adopted by the County in concert with the municipalities of the County." As the County acknowledged and represented to the SIB, this "comprehensive road plan" consisted of the projects set out in the RIDE Report. The Fee Use Provision thus allowed the County to collect the Hospitality Fee only to the extent the municipalities agreed to the RIDE Report. The RIDE Report incorporated the Hospitality Fee as a fundamental funding mechanism being available for twenty years. Without this fee, the RIDE Report could not be implemented. By way of their respective resolutions, the municipalities consented to the Hospitality Fee for that twenty-year period to implement the plan under the RIDE Report. The County then relied upon this consent in its SIB applications in order to obtain the complete funding for the projects within that plan.

Second, the State Constitution and statutes implementing Home Rule tend to demonstrate a reasonable likelihood that municipal consent is required. Counties have the statutory authority to adopt ordinances that are "not inconsistent with the Constitution and general law of this

[3] Contrary to the County's assertion, the City does not challenge a county's general right to pass and amend ordinances, including extending or repealing sunset clauses.

State." S.C. Code Ann. § 4-9-25. They also have the authority to impose "uniform service charges," but only "within the authority granted by the Constitution and subject to the general law of this State." S.C. Code Ann. § 4-9-30(a)(5). Both the Constitution and statutes enacted under Home Rule provide for the relationship between counties and municipalities, and in particular when each may perform its functions and provide its services within the boundaries of the other. *See* S.C. Const. art. XIII, § 13(A); S.C. Code Ann. § 4-9-40; *id.* § 4-9-41(A); *id.* § 5-7-60.

South Carolina law thus preserves the autonomy of municipalities within their borders absent their agreement or consent or an express statutory provision to the contrary.[4] The County and the City each possess the authority to enact uniform service charges, and in particular the authority to enact them to support road improvements. S.C. Code Ann. § 4-9-30(a)(5) (counties); *id.* § 5-7-30 (cities). However, neither section grants the City or the County the power to unilaterally impose such a uniform service charge within the jurisdictional limits of the other. Consistent with these principles, each municipality consented to Ordinance 105-96 and the imposition of the Hospitality Fee within its boundaries for twenty years.[5] But because there is no evidence of consent to any ordinance extending or expanding the Hospitality Fee, the City has demonstrated a likelihood of success on the merits of its claim.[6]

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[4] For over thirty years, the Attorney General similarly has recognized the independence of municipalities from county interference absent consent or express statutory authority. *E.g.*, S.C. Att'y Gen. Op., 2016 WL 7031993 (Nov. 15, 2016); S.C. Att'y Gen. Op., 2011 WL 3918176 (Aug. 10, 2011); S.C. Att'y Gen. Gen. Op., 1988 WL 383501 (Feb. 25, 1988); 1984 WL 249691 (Oct. 2, 1984). Although these opinions are not binding on this Court, the Court finds them persuasive in determining whether the City has stated a reasonable question on the merits of its argument.

[5] The County argues these resolutions did not supply any consent because they did not use that word. The Court rejects this premise. A resolution "urg[ing]" the adoption of the ordinance providing for the Hospitality Fee is tantamount to, if not stronger than, consenting to it. Regardless, the County does not now have the required consent of the City and the other municipalities.

[6] The Court also agrees with the City's contention that, without municipal consent the County's extension and expansion of the Hospitality Fee constitutes a new uniform service charge which is not

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The County argues the City cannot demonstrate a likelihood of success on the merits because its claims are barred by the doctrine of laches. "Laches is neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." *Harrison v. Owen Steel Co.*, 422 S.C. 132, 138 n.2, 810 S.E.2d 433, 436 n.2 (citations omitted). It requires that the asserting party prove "negligence, the opportunity to act sooner, and material prejudice. In order to constitute laches, the delay in bringing suit must have caused some injury, prejudice[,] or disadvantage to the party claiming laches." *Id.* The County argues laches applies because Ordinance 11-04 extended the Sunset Provision in 2004 and neither the City nor any other municipality objected until 2019.

The Court disagrees. Courts have long disfavored applying the equitable doctrine of laches against the government. *See, e.g, United States v. Kirkpatrick*, 22 U.S. 720, 735 (1824); *United States v. City of Greenville*, 118 F.2d 963, 966 (4th Cir. 1941). The facts here do not warrant departing from this long-standing practice. First, the City has demonstrated a likelihood of success on the merits that its consent is required to extend the duration or purpose of the Hospitality Fee. Ordinance 11-04 therefore was legally inoperative to extend the Sunset Provision. Second, the plain language of Ordinance 11-04 only gave the County the *option* to extend the Hospitality Fee for a period "not to exceed" five years if the County needed additional time to repay the SIB loan. The earliest the City might have had an actionable claim would have been in December 2016 when the County extended the Sunset Provision without qualification or

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permitted by South Carolina law. The General Assembly grandfathered uniform service charges properly adopted before December 31, 1996, when it enacted new rules regarding local government uniform service charges and taxes, particularly hospitality and accommodations taxes. S.C. Code Ann. § 6-1-330(A). The grandfathering of Ordinance 105-96 did not exempt it from existing municipal consent requirements; it merely ensured the ordinance was not invalidated because of the new procedural requirements for uniform service charges. The substantive changes to the Fee Use and Sunset provisions constituted an attempt to enact a new uniform service charge that is perpetual in duration and broader in scope, and is unlawful because the County lacked the requisite municipal consent.

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condition until January 1, 2022, although such a claim would not have fully ripened until the County actually collected the Hospitality Fee after its original expiration on January 1, 2017. *See Sloan v. Greenville Cnty.*, 356 S.C. 531, 546, 590 S.E.2d 338, 346 (Ct. App. 2003) ("A justiciable controversy is a real and substantial controversy appropriate for judicial determination, as opposed to a dispute or difference of a contingent, hypothetical or abstract nature."). Third, the County has not demonstrated any prejudice; it submitted only arguments of counsel, not facts, and its claimed prejudice—that it continued developing plans for I-73 and incurring administrative costs—are insufficient as the County will continue collecting at least $22 Million per year from the remaining portions of Ordinance 105-96 and the County's accommodations tax. And fourth, the County never codified Ordinance 11-04 as required by S.C. Code Ann. § 4-9-120. While an Editor's Note "referenced" the ordinance, as the County notes, it was never fully codified in the text of Horry County's municipal code.[7]

Moreover, the three-year statute of limitations, and not laches, governs the timeliness of the City's claims.[8] *See Wells Fargo Bank v. Carter*, 2014 WL 11034776 at *2 (D.S.C. 2014); *PCS Nitrogen, Inc. v. Ross Dev. Corp.*, 127 F. Supp. 3d 568, 590 (D.S.C. 2015); 22A Am. Jur. 2d. *Declaratory Judgments* § 182 (2019). Because the City brought its claims within three years of any cause of action having accrued, the City's actions are timely. Furthermore, the County's imposition of the Hospitality Fee also is a recurring violation that gives rise to a new claim every time it is paid, thus triggering a new limitations period. *See State ex rel. Wilson v. Ortho-McNeil-*

[7] While the City's complaint alleges that the County codified Ordinance 11-04, the City expressed its intent to amend its complaint to conform to the evidence at the appropriate time.

[8] Even if the statute of limitations is not directly applicable, courts look for an analogous statute of limitations as a guide when applying laches. *See S.C. State Ports Auth. v. M/V Tyson Lykes*, 837 F. Supp. 1357 (D.S.C. 1993) (stating that "the fact that this action was commenced well within the state statute of limitations, while not controlling, is a consideration of the court in ruling on laches"); Am. Jur. 2d *Laches* § 38 (2019) ("However, a statute of limitations may serve as a guide in determining whether an action is barred by laches"). Because the City satisfied the statute of limitations, the Court finds the timing of the City's action was not unreasonable and thus does not trigger laches.

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Janssen Pharmaceuticals, Inc., 414 S.C. 33, 78, 777 S.E.2d 176, 200 (2015) ("[W]here a liability arises on a recurring basis, a cause of action accrues each time a wrongful act occurs, triggering a new limitations period."). For all of these reasons, laches does not apply.

2. The City Will Suffer Irreparable Harm and Has No Adequate Remedy at Law.

Irreparable harm and inadequate remedy at law "are closely related, if not identical, concepts." 35 Am. Jur. 2d *Federal Tax Enforcement* § 1054. "[T]he duty rests upon" this Court to enjoin the collection of an illegal government assessment where the payer lacks a meaningful mechanism to challenge it, such as payment under protest with a right to recover in court. *Santee River Cypress Lumber Co. v. Query*, 168 S.C. 112, ___, 167 S.E. 22, 22 (1932); *see also Ware Shoals Mfg. Co. v. Jones*, 78 S.C. 211, ___, 58 S.E. 811, 813 (1907); *Riverwoods, LLC v. Cnty. of Charleston*, 348 S.C. 378, 563 S.E.2d 651 (2002). The General Assembly has provided no such mechanism with respect to uniform service charges. The County, however, contends that its Ordinance 8-00 creating a "Board of Fee Appeals" provides a sufficient remedy for fee payers to challenge their payment. The Court disagrees.

The County has no authority to appoint a "Board of Fee Appeals" as this entity does not "provide services of local concerns for public purposes." *See* S.C. Code Ann. § 4-9-30(6). Even if this power exists, the City correctly points out that Ordinance 8-00 suffers from several other legal infirmities.[9]

[9] Among these are the provision of Ordinance 8-00 allowing the County's administrator, and not its governing body, to appoint members of this board. *See* S.C. Code Ann. § 4-9-170; *id.* § 4-9-630 (setting forth powers of county administrators); Att'y Gen. Op., 1985 WL 166006 (April 11, 1985) ("Once the General Assembly has delegated appointment power to a body other than itself, additional delegation may not be made absent statutory authorization.") (citations omitted). Furthermore, Ordinance 8-00 purports to vest in "a court of competent jurisdiction" appellate authority to review the "written decision based on findings of fact and the applicable ordinance[]," but no court in South Carolina has jurisdiction in such matters. *See* S.C. Code Ann. § 14-25-45 (describing municipal court jurisdiction); S.C. Code Ann. § 22-3-10 (describing magistrates' court jurisdiction); *id.* § 1-23-600(D) (describing administrative law court appellate jurisdiction); *id.* § 14-5-340 (providing for circuit court appellate

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There are practical difficulties as well. The requirement that a written appeal be filed within ten days of payment of the fee and be accompanied by a $25 filing fee is an unrealistic requirement and a disincentive to appeal given that $1,666.66 in purchases are required in order to cover just the fee at 1.5%. The ordinance also requires a hearing before the board within forty-five days of receipt of the notice (which would be unduly burdensome, and likely prohibitive, for tourists), and the board must issue a written decision setting forth findings of fact. The board would be swamped and unable to meet these requirements for the thousands of people and entities paying this fee daily.

The questionable establishment and composition of the County's "Board of Fee Appeals," coupled with the absence of any ability to obtain judicial review, deprives the City and the Class Members of the "meaningful backward looking relief" needed to rectify "any unconstitutional deprivation" because there is not a "clear and certain remedy." *See McKesson v. Div. of Alcoholic Bevs. & Tobacco*, 496 U.S. 18, 31 (1990). The County's Ordinance 8-00 therefore does not supply the City and the Class Members with an adequate remedy at law.

Given that it cannot dispute that governmental exactions under invalid ordinances or the expenditure of public funds for invalid purposes constitute irreparable harm as a matter of law where no adequate remedy at law exists to protect the payor, the County attempts to flip the analysis and assert that the alleged irreparable harm *it* will suffer if the Court enjoins it from collecting the Hospitality Fee is pertinent to the analysis of the City's motion. To support its argument, the County cites to the affidavit of its Finance Director, Barry Spivey, who states that the County collects over $51 Million annually under the "Ordinance," and the City's success in this action would be "a fiscal catastrophe for Horry County as its residents." Mr. Spivey's

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jurisdiction); *id.* § 14-8-200 (providing for court of appeals' jurisdiction); *id.* §§ 14-3-310, *et seq.* (providing for supreme court appellate jurisdiction). And the County has no authority to create jurisdiction for an appellate court.

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affidavit is unpersuasive whether viewed from the perspective of the City's or the County's motion. Primarily, the "Ordinance" described by Mr. Spivey consists of four separate revenue collection streams, only one of which is at issue here. As demonstrated in the affidavit of the City's Chief Financial Officer, Michael W. Shelton, if the City prevails in this matter, the County will continue collecting over $22 Million annually under the remaining portions of the "Ordinance." This is more than double the amount necessary to cover the "critical public safety expenditures" Mr. Spivey claims are in jeopardy. As described above, the County has not yet determined how it wishes to spend future Hospitality Fee revenues, aside from dedicating a portion of them to the proposed I-73 project and public safety. This injunction therefore will not cause the County irreparable harm.

3. An Injunction is Reasonably Necessary to Protect the City's Rights.

Absent an adequate remedy at law, the only way to safeguard the City and the Class Member's rights during the pendency of this litigation is an injunction. An injunction also protects the interests of municipal residents to give their local elected representatives, not members of County Council who are not elected by residents of one or more municipalities, input on whether a fee would be imposed upon them and the terms of such a fee. *Cf.* S.C. Code Ann.§ 4-9-41(B).

4. The City Has Shown the County Acted in an Arbitrary, Capricious, and Oppressive Manner.

As a final matter, the Court finds the City has sufficiently demonstrated that the County acted in an arbitrary, capricious, and oppressive manner.

South Carolina law requires municipal consent to the imposition of uniform service charges within incorporated areas. This fact is demonstrated by the fact that the County obtained this consent when it first enacted the Hospitality Fee in Ordinance 105-96. As the original

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twenty-year term came to a close, the County unilaterally attempted to extend the Hospitality Fee for five years and then, just months later, attempted to remove the Sunset Provision altogether. It did so without soliciting any consent from each affected municipality. Minutes of the County Council meetings show that it felt it was "under urgency" that "they had been apprised of the problem that they would lose their grandfathered status once they paid off the SIB loan never to be recovered." These minutes further show that County acted without any specific plans for these funds; it would collect them and *then* determine how to spend the money. The County also believes, albeit incorrectly, that the Hospitality Fee precludes the City from adopting the Local Tax Ordinances to collect a portion of these revenues itself.

This evidence, at least at this point in time, tends to show the County knew municipal consent was required as it previously obtained municipal consent, but it nevertheless acted unilaterally to preserve a revenue source in perpetuity that it had no existing plans to use and, as it believes, to preclude the City from exercising its authority to collect tax revenues on sales of accommodations and hospitality services within its own borders. This sufficiently demonstrates the County acted in an arbitrary, capricious, or oppressive manner.

B. The County's Motion for Temporary Injunctive Relief

1. The County Has Not Demonstrated a Likelihood of Success on the Merits.

The County has not pled a cause of action for injunctive relief in its counterclaims, nor is there any claim whatsoever related to the Local Tax Ordinances. The County has moved to amend its counterclaims to include claims for declaratory and injunctive relief for these taxes. The City opposed that motion on the ground that they constitute compulsory counterclaims which the County waived by not pleading them originally. The County's sole argument is that the Local Tax Ordinances, when imposed in conjunction with the Hospitality Fee, exceed the

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maximum cumulative tax rates in S.C. Code Ann. §§ 6-1-540 and 6-1-740.[10] As the County has misapprehended the application of these sections to the Hospitality fee, it has not demonstrated a likelihood of success on the merits of this argument.

First, the County's argument presupposes that it will be permitted to continue collecting the Hospitality Fee. Because the Court enjoins the County from doing so during the pendency of this litigation, the County's argument necessarily fails. Second, the County's argument misapprehends the distinction between uniform services charges and taxes. Under South Carolina law, uniform service charges (such as the Hospitality Fee) and taxes (such as the Local Tax Ordinances) are fundamentally different means of raising revenue. *See Brown v. Cnty. of Horry*, 308 S.C. 180, 185, 417 S.E.2d 565, 568 (1992) ("Although a service charge may possess points of similarity to a tax, it is inherently different and governed by different principles"). Within Chapter 1, Title 6 of the South Carolina Code, the General Assembly retains and recognizes this distinction. *Compare* S.C. Code Ann. § 6-1-330 (providing for the imposition of uniform service charges), *with id.* §§ 6-1-500, *et seq.* (providing for local accommodations taxes) *and id.* §§ 6-1-700, *et seq.* (providing for local hospitality taxes). The County itself adheres to this critical distinction, as integral parts of the Hospitality Fee are not authorized taxes a county may impose, such as the fee on admissions, the fee on rental cars, and the 2.5% fee on prepared

[10] Section 6-1-540 provides, "The **cumulative rate of** county and municipal local **accommodations taxes** for any portion of the county area **may not exceed three percent**, unless the cumulative total of such taxes were in excess of three percent prior to December 31, 1996, in which case the cumulative rate may not exceed the rate that was imposed as of December 31, 1996," and § 6-1-740 similarly states, "The **cumulative rate of** county and municipal **hospitality taxes** for any portion of the county area **may not exceed two percent**, unless the cumulative total of such taxes was in excess of two percent or were authorized to be in excess of two percent prior to December 31, 1996, in which case the cumulative rate may not exceed the rate that was imposed or adopted as of December 31, 1996." (Emphasis supplied.) The County has not adopted an ordinance imposing either a local accommodations tax under S.C. Code Ann. § 6-1-520 or a local hospitality tax under S.C. Code Ann. § 6-1-720 within corporate limits in Horry County.

food and beverage in the unincorporated area in excess of the 2% cumulative hospitality tax cap in § 6-1-740.[11]

Sections 6-1-540 and 6-1-740, by their express terms, cap only the amount of accommodations and hospitality *taxes* within a municipality. *See Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) ("Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning."). The Local Tax Ordinances do not exceed these statutory caps, and because the Hospitality Fee is a uniform service charge and not a tax, it is irrelevant to the analysis. The County therefore has not shown a likelihood of success on the merits of a claim seeking to enjoin the City's lawful imposition of the Local Tax Ordinances.

Thus, this Court finds that for the purposes of a Temporary Restraining Order, the County's likelihood of success does not exist, therefore the four remaining elements of temporary injunctive relief need not be addressed by this Court. Lastly, the County proffers the argument that a preliminary injunction should only be issued to preserve the status quo. However, this Court believes if preliminary injunctions were issued to only preserve the status quo, then a preliminary injunction should never be issued, even though the rules in South Carolina allow same. This position in and of itself is not logical.

CONCLUSION

For the foregoing reasons, the Court GRANTS the City's motion for the pendency of this litigation and DENIES the County's motion.

IT IS SO ORDERED.

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[11] In addition, Ordinance 105-96 states that the Hospitality Fee is a uniform service charge, as does Mr. Spivey in his affidavit. *See Brown*, 308 S.C. at 184, 417 S.E.2d at 567 (holding that an ordinance's designation of a charge as a fee instead of a tax may be some evidence as to its nature).

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The Honorable William H. Seals, Jr.
Judge for the Fifteenth Judicial Circuit

This ____ day of June, 2019
_____, South Carolina

ELECTRONICALLY FILED - 2019 Jun 21 4:11 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

ELECTRONICALLY FILED - 2019 Jun 21 4:11 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

Horry Common Pleas

Case Caption: Myrtle Beach City Of VS Horry County Of

Case Number: 2019CP2601732

Type: Order/Temporary Injunction

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

ELECTRONICALLY FILED - 2019 Jul 10 4:47 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Plaintiff, vs. Horry County, Defendant.	)	CIVIL ACTION NO. 2019-CP-26-01732 **ORDER**

After hearing arguments from all attorneys on July 10, 2019, this Court understands that there may have been a misinterpretation of its Order for a Preliminary Injunction dated June 21, 2019. Therefore, this Court is not holding the Defendant in Contempt of Court pursuant to the Plaintiff's Rule to Show Cause. However, this Court is being extremely lenient with this ruling as the Complaint specifically makes clear in paragraphs 1, 7, 40, 42, and 43 that all municipalities in Horry County are included in this action. Additionally, there are specific references to all the municipalities throughout the Order for Preliminary Injunction, as well as specific references to all municipalities within Horry County throughout oral arguments. Additionally, the caption states "for itself and a class of similarly situated Plaintiffs."

For clarification, this Court is hereby making it clear that it's Order for a Preliminary Injunction dated June 21, 2019, includes not only Myrtle Beach ***but also*** **Atlantic Beach, Aynor, Conway, Loris, North Myrtle Beach and Surfside Beach** during the pendency of this action. As to Myrtle Beach, the Preliminary Injunction Order dated June 21, 2019, is already in full force and effect, and shall remain so for the pendency of this action. **As to the remaining above mentioned municipalities, this Order for Preliminary Injunction shall take full force and effect on**

August 10, 2019, for the pendency of this action. All of the reasons as outlined in the Court's Order for Preliminary Injunction dated June 21, 2019, are incorporated herein and made a part hereof by specific reference thereto. Additionally, this Court believes that a bond as required by Rule 65 is not necessary and/or required for these parties.

Furthermore, after careful and deliberate consideration, the Defendant's Motion to Reconsider is hereby denied. Lastly, the parties are hereby ordered to provide the Court with a Scheduling Order within fifteen days from the date of this Order. If the parties cannot agree on a Scheduling Order then this Court will issue its own Order.

IT IS SO ORDERED.

_____
The Honorable William H. Seals, Jr.
Judge for the Fifteenth Judicial Circuit

This ____ day of July, 2019
_____, South Carolina

ELECTRONICALLY FILED - 2019 Jul 10 4:47 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

ELECTRONICALLY FILED - 2019 Jul 17 1:04 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Plaintiff, vs. Horry County, Defendant.	)	CIVIL ACTION NO. 2019-CP-26-01732 **ORDER ON MOTION FOR STAY OF PRELIMINARY INJUNCTION OR SUPERSEDEAS PENDING APPEAL**

This matter is before the Court on the July 12, 2019, motion of Defendant Horry County ("County") for a stay or supersedeas of the Court's June 21, 2019, and July 10, 2019, orders granting to Plaintiff City of Myrtle Beach ("City"), and all other similarly situated plaintiffs, which includes the other municipalities situated within Horry County,[1] a preliminary injunction against the collection of the County's 1.5% uniform service charge under County Ordinance 105-96 ("Hospitality Fee"). This injunction applied within the City on June 21, 2019, and will apply within the other municipalities beginning August 10, 2019.

After having fully considered the matter,[2] the Court denies the County's motion for stay or supersedeas. The Court concludes that the County has failed to establish any basis for relief under Rule 62(c), SCRCP, Rule 62(d), SCRCP, or Rule 241(c), SCACR.

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[1] As this Court noted in the July 10, 2019 order denying reconsideration, these municipalities are the Town of Atlantic Beach, the Town of Aynor, the City of Conway, the Town of Loris, the City of North Myrtle Beach, and the Town of Surfside Beach, which are hereinafter referred to as the "Other Municipalities."

[2] The Court has also considered the County's July 16, 2019, memorandum in support of its motion and the supplemental affidavit of the County's Finance Director, Barry A. Spivey asserting that in 2018, the County collected some $28,290,302 in revenues generated by the 1.5% uniform service charge it imposed within the municipalities of Horry County, the collection of which is presently enjoined in the City and which will be enjoined on and after August 10, 2019, in the other municipalities. The Court does not require a response to this memorandum and

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However, and as permitted by Rule 62(c), SCRCP, and based upon the County's further request and the City's subsequent invitation of same, the Court modifies its injunction to require that the City, which has adopted three ordinances dealing with the imposition of new local accommodations taxes and local hospitality taxes under S.C. Code Ann. §6-1-520 and S.C. Code Ann. §6-1-720, respectively, to escrow the new tax revenues collected under such ordinances to provide security to the County under Rule 65(c), SCRCP. The Court, in exercising its discretion as expressly permitted by Rule 65(c), finds that this escrow, along with the fact that the City possesses the authority to raise revenue via, *inter alia*, ad valorem taxes in the form of increases to millage rates, the imposition of other taxes or uniform service charges, or the issuance of bonds (*see, e.g.*, May 24, 2019 Affidavit of Michael W. Shelton), to cover any difference between the amount of the escrow and any costs and damages the County might incur or suffer in the event the Court's injunction is reversed on appeal, is a proper sum under Rule 65(c) and adequately protects the County.[3]

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affidavit by the City for two reasons. First, the substance of the County's July 16 memorandum is essentially a request that the Court reconsider its determination to issue an order denying the County's motion, modifying the injunction to address the County's previously expressed concerns regarding security, and requiring mediation within 20 days. This the Court declines to do. Second the revenue figures asserted by Mr. Spivey, although inconsistent with his assertions in his first affidavit to the Court and revenue figures advanced by County Council in Resolution R-36-19 (Ex. A to City Memo in Opp. to County Mot. to Amend Answer), are consistent with the revenue figures asserted by the City's finance director, Michael W. Shelton, in his affidavit previously submitted in connection with the parties' motions for injunctive relief. Therefore, this provides the Court with no new information. Further, the Court notes that the County has repeatedly acknowledged that it has no current need to use the revenues it is enjoined from collecting by stating that, if its motion for injunctive relief were to be granted, it would "segregate" the funds derived from the continued imposition of its uniform service charge within the municipalities.

[3] This Court's finding that the escrowing by the City of the new tax revenues collected under the recently-enacted local accommodations taxes and local hospitality taxes, along with its ability to otherwise raise revenue, is an appropriate security under these circumstances, which is not a "nominal security bond" according to the figures presented by Mr. Spivey, *cf. Atwood Agency v. Black*, 374 S.C. 68, 73, 646 S.E.2d 882, 884 (2007), is made independent of, but is

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In addition, the Court directs that the City and County engage in mediation, same to be completed and conducted within twenty (20) days of the date of this order. The Court is informed by counsel for the City that counsel for the County has indicated that Karl A. Folkens, Esquire, is acceptable to the County to serve as a mediator. The Court is further informed by counsel for the City that it, too, finds Mr. Folkens acceptable and that Mr. Folkens has indicated that he is available to conduct this mediation on July 24, 2019, and continuing on August 1, 2019, should that become necessary. The Court therefore appoints Mr. Folkens to serve as mediator, with the cost to be split between the City and the County, and directs that the mediation be undertaken no later than August 1, 2019, continuing thereafter on a mutually agreed date, if necessary. The County has indicated to the Court its representatives will not be able to mediate on July 24, 2019. However, should the parties and Mr. Folkens be able to conduct the mediation any sooner than August 1, 2019, they may do so.[4]

IT IS SO ORDERED.

_____
The Honorable William H. Seals, Jr.
Judge for the Fifteenth Judicial Circuit

This ____ day of July, 2019
_____, South Carolina

certainly bolstered by, the Court's view as expressed in the July 10, 2019, order denying reconsideration that the City is not even required to post a security bond under Rule 65(c) based on its status as a political subdivision.

[4] By separate order, and with the consent of the City, the Court will grant the County's motion to stay any other proceedings in this Court while the County's appeal of the June 21 and July 10 orders is pending in the Court of Appeals or Supreme Court. That stay does not, however, relieve the County from its obligation to mediate as directed in the instant order.

ELECTRONICALLY FILED - 2019 Jul 17 1:04 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

Horry Common Pleas

Case Caption: Myrtle Beach City Of VS Horry County Of

Case Number: 2019CP2601732

Type: Order/Supersedeas

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

ELECTRONICALLY FILED - 2019 Jul 18 8:11 AM - HORRY - COMMON PLEAS - CASE#2019CP2601732

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Plaintiff, vs. Horry County, Defendant.	)	CIVIL ACTION NO. 2019-CP-26-01732 **ORDER ON MOTION FOR STAY OF CASE PENDING APPEAL**

This matter is before the Court on the July 15, 2019, motion of Defendant Horry County ("County") for a stay of the above-captioned action during the pendency of the County's appeal of the Court's orders of June 21, 2019, and July 10, 2019, which granted to Plaintiff City of Myrtle Beach ("City"), and all other similarly situated plaintiffs, which includes the other municipalities situated within Horry County, a preliminary injunction against the collection of the County's 1.5% uniform service charge under County Ordinance 105-96 ("Hospitality Fee"). This injunction applied within the City on June 21, 2019, and will apply within the other municipalities beginning August 10, 2019.

The City has advised the Court that it does not oppose the County's motion. The Court has today issued a separate order requiring mediation. The Court finds that stay granted herein should not apply to such mediation, which should proceed and be conducted by the parties in accordance with the Court's separate order.

IT IS THEREFORE ORDERED THAT further proceedings in the above-captioned action in this Court, other than the mediation described above, are stayed pending the County's appeal of the Court's orders of June 21, 2019, and July 10, 2019. The mediation provided for under separate order of the Court shall proceed in accordance with the terms of same.

AND IT IS SO ORDERED.

_____
The Honorable William H. Seals, Jr.
Judge for the Fifteenth Judicial Circuit

This ____ day of July, 2019
_____, South Carolina

ELECTRONICALLY FILED - 2019 Jul 18 8:11 AM - HORRY - COMMON PLEAS - CASE#2019CP2601732

ELECTRONICALLY FILED - 2019 Jul 18 8:11 AM - HORRY - COMMON PLEAS - CASE#2019CP2601732

Horry Common Pleas

Case Caption: Myrtle Beach City Of VS Horry County Of

Case Number: 2019CP2601732

Type: Order/Stay

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

The South Carolina Court of Appeals

City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Respondent,

v.

Horry County, Appellant.

Appellate Case No. 2019-001134

ORDER

After careful consideration of the parties' filings, Appellant's petition for supersedeas is denied.

FOR THE COURT

Columbia, South Carolina

cc:
William Grayson Lambert, Esquire
James Keith Gilliam, Esquire
Adam Robert Artigliere, Esquire
John Marion S. Hoefer, Esquire
Chad Nicholas Johnston, Esquire
Robert Walker Humphrey, II, Esquire
Henrietta U. Golding, Esquire

FILED
August 7, 2019

ELECTRONICALLY FILED - 2019 Aug 16 2:48 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO. 2019-CP-26-01732
City of Myrtle Beach,	)	
	)	
For Itself and a Class of Similarly Situated Plaintiffs,	)	**ORDER**
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Horry County,	)	
	)	
Defendant.	)	
	)	

This matter comes before the Court on the August 6, 2019, motion of Plaintiff, City of Myrtle Beach, for an order partially lifting the stay imposed by the Court's July 18, 2019, order in the above-captioned matter. Defendant, Horry County, has advised the Court that it does not oppose the motion.

Accordingly, the July 18, 2019, stay in this matter is lifted for the limited purpose of allowing Plaintiff to file evidence of a surety bond it has obtained in the amount of $8.815 Million.[1]

AND IT IS SO ORDERED.

The Honorable William H. Seals, Jr.
Circuit Court Judge

This __ day of _____, 2019
Marion, South Carolina

[1] Even with this surety bond, Horry County maintains that the security is not adequate as required by Rule 65(c).

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Horry Common Pleas

Case Caption: Myrtle Beach City Of VS Horry County Of

Case Number: 2019CP2601732

Type: Order/Stay

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

ELECTRONICALLY FILED - 2019 Mar 20 4:15 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Plaintiff, vs. Horry County, Defendant.	)	CIVIL ACTION NO. 2019-CP-26-_____ **SUMMONS**

TO THE DEFENDANT 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 their office, 930 Richland Street, P.O. Box 8416, Columbia, South Carolina 29202-8416, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, or otherwise appear and defend, judgment by default will be rendered against you for the relief demanded in the Complaint.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,

s/ Chad N. Johnston

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Chad N. Johnston, SC Bar # 73752
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Attorneys for Plaintiff City of Myrtle Beach and All Others Similarly Situated

Columbia, South Carolina
March 20, 2019

ELECTRONICALLY FILED - 2019 Mar 20 4:15 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

ELECTRONICALLY FILED - 2019 Mar 20 4:15 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Plaintiff, vs. Horry County, Defendant.	)	CIVIL ACTION NO. _____ **COMPLAINT** **(Action for Declaratory Judgment, Injunctive Relief, Unjust Enrichment, and Imposition of a Constructive Trust)** **(Jury Trial Demanded)**

Plaintiff, City of Myrtle Beach ("City"), for itself and, pursuant to Rule 23 of the South Carolina Rules of Civil Procedure ("SCRCP"), on behalf of a class of similarly situated fee payers, complains of Defendant, Horry County ("County"), and would respectfully show unto this Honorable Court as follows:

Introduction

1. Since January 1, 2017, County has, in contravention of its statutory authority and thus illegally, been collecting tens of millions of dollars per year in fees at a rate of 1.5% on the gross proceeds of, *inter alia*, accommodations, food and beverage, and amusements ("Hospitality Fee") within the municipalities of Atlantic Beach, Aynor, Conway, Loris, Myrtle Beach, North Myrtle Beach, and Surfside Beach (collectively hereinafter "Municipalities"). County has manifested its intention—and attempted to give itself the authority—to continue collecting this improper Hospitality Fee in perpetuity.

2. City, and all others who have paid the Hospitality Fee since January 1, 2017, are entitled to both declaratory and injunctive relief to prevent the illegal collection of same now and in the future and a refund from County for the Hospitality Fee collected after that date. City

ELECTRONICALLY FILED - 2019 Mar 20 4:15 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

brings this action on behalf of itself and, pursuant to Rule 23, SCRCP, as representative of the members of the Class, as defined herein.

Parties

3. City is a political subdivision and municipal corporation organized and existing under S.C. Const. art. VIII and Title 5 of the Code of Laws of South Carolina whose municipal limits are situated wholly within in the State and County aforesaid.

4. County is a body corporate and politic existing under S.C. Const. art. VIII and Title 4 of the Code of Laws of South Carolina.

Jurisdiction

5. This Court has jurisdiction over the parties and the causes of action pursuant to the statutory and common law of this state, including S.C. Code Ann. § 15-53-20 and S.C. Code Ann. § 15-53-30.

Venue

6. Venue is proper in this Court pursuant to, *inter alia*, S.C. Code Ann. § 15-7-20.

Class Allegations

7. City brings this action on behalf of itself and all others similarly situated under Rule 23, SCRCP. City seeks to represent the following class:

> All individuals, corporations, companies, associations, firms, partnerships, societies, joint stock companies, political subdivisions, counties, municipalities, state agencies, and instrumentalities of the State of South Carolina who have paid 1.5% fee under Section 19-6(a) of the Code of Ordinances of Horry County, South Carolina, on or after January 1, 2017, and/or are subject to paying such 1.5% fee on a going forward basis, for purchases of covered accommodations, food, beverage, and amusements within the Municipalities situated in Horry County.

(Hereinafter referred to collectively as "Class").

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8. City's claims may be maintained under Rule 23(a), SCRCP on behalf of the members of the Class because the Class is so numerous that joinder of all members is impracticable. As described below, there are questions of law or fact in common to the Class, the claims of the City as representative party are typical of the claims of the Class, the City will fairly and adequately protect the interests of the Class, and the relief sought is primarily injunctive and declaratory.

9. The questions of law and fact that are common to the City and to all members of the Class predominate over questions, if any, that may affect only individual plaintiffs or individual members of Class, inasmuch as the unlawful activity alleged herein is of a character that is generally applicable to the City and the members of the Class. Among the questions of law common to the claims of City and the Class it represents are, *inter alia*:

a. Whether City and the members of the Class are entitled to a declaration that:

   i. County's attempted unilateral modification of the Sunset Provision and scope of permitted expenditures through its Ordinance No. 93-16 and collection and retention of the Hospitality Fee after January 1, 2017 was illegal; and

   ii. County's attempted unilateral repeal of the Sunset Provision through its Ordinance No. 32-17 and collection and retention of the Hospitality Fee after January 1, 2017 was illegal;

b. Whether County should be permanently enjoined from collecting or retaining the Hospitality Fee collected from within the corporate limits of the Municipalities;

c. Whether a constructive trust has been imposed on County with respect to the Hospitality Fee that it has illegally collected and retained from within the corporate limits of the Municipalities after January 1, 2017;

d. Whether County has been unjustly enriched through the illegal collection and retention of the Hospitality Fee from within the corporate limits of the Municipalities after January 1, 2017; and

e. Whether City and the members of the Class are entitled to proportional refunds of the Hospitality Fee collected unlawfully after January 1, 2017.

10. Among the questions of fact common to the claims of City and the members of the Class it represents are, *inter alia*:

a. All factual issues related to the requested declaratory and injunctive relief;

b. The amount of the Hospitality Fee County has improperly collected within the Municipalities after January 1, 2017 which are held in constructive trust for City and the Class; and

c. The calculation of the amount of proportional refund owed each member of the Class.

11. The claims advanced by City are typical of those of each member of the Class in that the nature of the claims is the same for each Class member; the ordinance imposing the fee is the same for each Class member; the illegality of the fees County collected is the same for each Class member; each Class member paid the illegal fee; and the anticipated defenses of Defendants are the same for each Class member.

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12. City paid the Hospitality Fee just as each other member of the Class. City possesses sufficient knowledge and involvement in the matter to fairly and adequately protect the interests of each member of the Class.

13. Each member of the Class is equally entitled to declaratory and injunctive relief, as well as a proportional refund in the amount of each member's payment of the Hospitality Fee collected improperly by County after January 1, 2017.

General Background/Facts

14. In May of 1996, "the South Carolina Department of Transportation, at the direction of the Governor, created the Road Improvement and Development Effort Committee (RIDE) to determine short- and long-term transportation infrastructure needs and improvements for Horry County along with various options to fund these improvements." *Report to the Honorable David M. Beasley, Governor of South Carolina*, The Road Improvement and Development Effort, September, 1996, Preface, copy attached hereto and incorporated herein by reference as Complaint Exhibit A ("RIDE Report"). The impetus for the creation of the RIDE Committee was an unsuccessful referendum vote by the Horry County electorate on March 5, 1996, to adopt the county's "Comprehensive Road Program" which would have been funded, in part, by a local option sales tax under S.C. Code Ann. § 4-10-10. *See* Ex. A at § 1.0. The RIDE Report to the Governor recommended a plan by which the need for road improvements in Horry County could be addressed and funded on a short- and long-term basis.

15. In furtherance of the goals and objectives of the RIDE Report, and in pursuance of the plan recommended therein, on August 6, 1996, and citing the unsuccessful referendum to impose a local option sales tax as a reason, the governing body of Horry County, Horry County Council ("County Council"), gave first reading to Ordinance No. 105-96, which would impose a

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two and one-half percent "uniform service charge hereinafter referred to as the 'hospitality fee'" on the sale of accommodations, admissions, and food and beverages. A copy of Ordinance No. 105-96 is attached hereto and incorporated herein by reference as Complaint Exhibit B. Thereunder, 1.5% of this uniform service charge, *i.e.*, the Hospitality Fee, would apply countywide within the corporate limits of municipalities and in the unincorporated areas of Horry County. An additional 1% would apply only in the unincorporated areas of Horry County. *See* Ex. B at § 1(A).

16. The stated purpose of the Hospitality Fee to be imposed within the corporate limits of municipalities in Horry County was "to provide needed infrastructure" to improve roads in Horry County (*see* Ex. B, recitals) and thus required that "the funds derived from the one and one-half percent fee shall be deposited into a Road Fund which will be used to implement a comprehensive road plan adopted by the County **in concert with the municipalities of the County**." *See id.* at § 1(G) ("Fee Use Provision") (emphasis added). No other use of these funds was contemplated.

17. The ordinance further provided that "[t]he imposition of the one and one-half (1.5%) percent hospitality fee for infrastructure will terminate" either on August 1, 1997, if the State of South Carolina did not act to provide funding for "the short term funding outlined by RIDE" or "twenty years from the effective date of [the] ordinance." *See id.* at § 1(H) ("Sunset Provision").

18. Ordinance No. 105-96 was given second reading by the County Council on August 20, 1996.

19. On October 8, 1996, the governing body of Plaintiff, Myrtle Beach City Council ("City Council"), adopted a resolution supporting the recommendations of the RIDE Report,

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which City Council understood to "propose[] implementation of a 1.5 percent hospitality fee for a period of up to 20 years in partnership with the State of South Carolina, who will contribute substantial funding" and urged County Council to "enact the necessary ordinances to implement the RIDE committee report." A copy of this resolution is attached hereto and incorporate herein by reference as Exhibit C. Resolutions containing the same language from Exhibit C as quoted in this complaint Paragraph 19 were adopted by the Municipalities, respectively, in or about October and November 1996, copies of which resolutions are attached hereto and incorporated herein by reference as composite Exhibit D.

20. On October 15, 1996, following third and final reading, County Council enacted Ordinance No. 105-96, and the Hospitality Fee imposed thereunder, same to be effective on January 1, 1997, and terminating on January 1, 2017. This ordinance was thereafter recorded in the office of the Register of Mesne Conveyances for Horry County in Book 1895 at Page 838. *See* Ex. A.

21. On February 4, 1997, County Council enacted Ordinance No. 7-97 amending § 1(A)(3)(G) and §1 (A)(3)(H) of Ordinance No. 105-96. The purpose of this amendment was, in part, to provide the County authority to use the revenues collected under Ordinance 105-96 to match State and Federal funds and re-designate the "Road Fund" holding the proceeds of the 1.5% Hospitality Fee as the "Road Special Revenue Fund," but it retained the Fee Use Provision and the Sunset Provision. A copy of Ordinance No. 7-97, recorded in the Office of the Register of Mesne Conveyances for Horry County in Book 1922 at Page 1463, is attached hereto and incorporated herein by reference as Exhibit E.

22. On October 15, 1997, the County filed an application with the South Carolina Transportation Infrastructure Bank ("SIB") for state funding in the form of a loan for the road

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improvement plan in Horry County recommended in the RIDE Report ("RIDE Project"), to which application the County attached, *inter alia*, the RIDE Report and the resolutions attached hereto as Exhibit C and composite Exhibit D. A copy of this SIB application, less the exhibits referenced therein, is attached hereto and incorporated herein by reference as Exhibit F. In the SIB application, Horry County referred to the 1.5% Hospitality Fee provided for in Ordinance No. 105-96 as being a "source of local revenue" to fund the RIDE Project, which would generate the approximately $368 Million County required contribution to the $774 Million estimated cost to complete the RIDE Project, such contribution being payable by the County. *See* Ex. F at 6, 9. The RIDE Plan further recommended that any surplus in funds generated to support its short-term recommended projects be used to fund the long-term projects recommended under the RIDE Plan. *See* Ex. F at § 3.0, Note.

23. On November 18, 1997, County Council adopted its Resolution Number 224-97 which, *inter alia*, reaffirmed that the 1.5% Hospitality Fee enacted under Ordinance No. 105-96 is "to be used to provide the county portion of funding for the RIDE Plan" and, at the request of the SIB, reaffirmed the County Council's "support for the RIDE Plan," stating that it "supports, endorses and approves [the County's] amended application to [SIB] to be presented on November 24, 1997." A copy of this resolution is attached hereto and incorporated herein by reference as Exhibit G.

24. On November 20, 1997, the County submitted a revised application to SIB, a copy of which is attached hereto and incorporated herein by reference as Exhibit H. Under this revised application to SIB, the estimated cost to complete the RIDE Project was reduced from $774 Million to $545 Million and the "source of local revenue" to be generated by the 1.5% Hospitality Fee under Ordinance No. 105-96 was reduced from $368 Million to $300 Million,

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same to be the County's required contribution to the RIDE Project and payable by the County in installments through fiscal year 2016/2017. *See* Ex. H at i. 5, and 7.

25. On or about March 10, 1998, and following its approval of the County's revised application, SIB issued a loan to County for $300 Million for the short-term projects set out in the RIDE Project, which loan was to be repaid by County from revenues in the Road Special Revenue Fund.

26. On or about April 21, 1998, County and SIB entered into a second loan agreement in the approximate amount of $247.6 Million for the long-term projects set out in the RIDE Project, same also to be repaid by revenues in the Road Special Revenue Fund.

27. County Council amended Ordinance No. 105-96 on a number of occasions by the enactment of a number of subsequent ordinances, including Ordinance No. 7-97 in 1997; Ordinance No. 76-97 in 1997; Ordinance No. 80-01 in 2001, and Ordinance No. 11-04 in 2004, none of which amendments made changes to the two sections of Ordinance No. 105-96 pertinent to the instant complaint, *i.e.*, the Fee Use Provision and the Sunset Provision.

28. On December 6, 2016, County Council enacted Ordinance No. 93-16, further amending Ordinance No. 105-96 and thereby attempted for the first time to unilaterally extend the termination date of the Sunset Provision so that "the imposition of the one and one-half (1.5%) Hospitality Fee for infrastructure will terminate on January 1, 2022." *See* Ordinance No. 93-16, a copy of which is attached hereto and incorporated herein by reference as Exhibit I at 5, § I(E). This ordinance further granted County Council authorization to use all revenues generated thereunder—including those generated by the 1.5% Hospitality Fee imposed within the Municipalities—for a variety of purposes not set out in Ordinance No. 105-96. *See* Ex. I at 5, § I(F). County Council did not seek City's consent prior to the enactment of Ordinance No. 93-16.

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On information and belief, County Council likewise did not seek the consent of any of the other of the Municipalities prior to the enactment of Ordinance No. 93-16.

29. On May 2, 2017, County Council enacted Ordinance No. 32-17, amending Ordinance No. 93-16 and thereby attempted to repeal the Sunset Provision altogether. *See* Ordinance No. 32-17, Section I, a copy of which is attached hereto and incorporated herein by reference as Exhibit J. County Council did not seek City's consent prior to the enactment of Ordinance No. 32-17. On information and belief, County Council likewise did not seek the consent of any of the other of the Municipalities prior to the enactment of Ordinance No. 32-17.

30. The ordinances referenced in paragraphs 15 to 21, and 27 to 29, have been codified by County in its Code of Ordinances as Section 19-6, a copy of which is attached hereto and incorporated herein by reference as Exhibit K.

31. On July 24, 2018, County Council adopted Resolution R-82-18, by which it "dedicate[d] $30,000,000 annually of the 1.5% Hospitality Fee to construct the Horry County segments of I-73." *See* Resolution R-82-18, a copy of which is attached hereto and incorporated herein by reference as Exhibit L. At the meeting adopting the resolution, County Council amended Resolution R-82-18 to reduce this dedication of Hospitality Fee funds to I-73 to a floor of $23,000,000 annually, with a maximum of dedication of $25,000,000 annually with growth. These "Horry County segments of I-73" were not and are not a part of the RIDE Project.

32. And, on July 24, 2018, County Council adopted Resolution R-84-18, a copy of which is attached hereto and incorporated herein by reference as Exhibit M, by which it "direct[ed] [its] staff to draft an ordinance amending Section 19-6(h) of the Horry County Code of Ordinances to allow the 1.5% hospitality fee for all eligible uses." *Id.* Resolution R-84-18 further states that "[i]n addition, the County Administrator shall include a proposal in the FY

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2020 budget a plan to utilize the uncommitted balance of the 1.5% hospitality fee for eligible tourism-related public safety expenditures that lead to tourist destinations." *Id.* Resolution R-84-18 expresses County Council's belief that, as amended, "the Hospitality Fee can be used on other tourism-related purposes besides roads." *Id.* Similar to Resolution R-82-18, County Council amended Resolution R-84-18 to direct staff to create a plan for public safety using $18,000,000 and any growth above the $25,000,000 committed in Resolution R-82-18. These "eligible uses," "eligible tourism-related public safety expenditures that lead to tourist destinations," and "other tourism-related purposes besides roads" are not part of the RIDE Project.

33. In Resolutions R-82-18 and R-84-18, County Council admitted that one of the intended effects of Ordinance Nos. 93-16 and 32-17 is to "extend [the Hospitality Fee's] imposition" within the Municipalities.

34. Upon information and belief, no ordinance has been adopted by the County Council amending Section 19-6(h) of the Horry County Code of Ordinances, as contemplated by R-84-18.

35. The County staff has estimated that "71% of [the revenue generated by the 1.5% hospitality fee under Ordinance No. 105-96, as amended and codified as Section 19-6 of the Horry County Code of Ordinances] is generated within the municipalities" situated within Horry County. *See* Horry County Council Minutes, July 24, 2018 at 3, a copy of which is attached hereto and incorporated herein by reference as Exhibit N.

36. The City has not consented to the County's imposition of the 1.5% uniform service charge under Ordinance No. 105-96, as amended and codified as Section 19-6 of the Horry County Code of Ordinances, within the corporate limits of the City on or after January 1, 2017, or for any purpose other than providing a revenue source to allow County to meet its loan

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obligations to the SIB for the RIDE Project up until that date. Upon information and belief, no other Municipality has so consented.

37. City has paid the Hospitality Fee on or after January 1, 2017 under Ordinance 105-96, as amended and codified as Section 19-6 of the Horry County Code of Ordinances. Upon information and belief, members of the Class have likewise paid the Hospitality Fee on or after January 1, 2017 under Ordinance 105-96, as amended and codified as Section 19-6 of the Horry County Code of Ordinances.

First Cause of Action
(Declaratory Judgment)

38. The pertinent allegations of Paragraphs 1-37 are incorporated into this First Cause of Action by reference as fully as if set forth verbatim.

39. Pursuant to the Uniform Declaratory Judgments Act, S.C. Code Ann. §§ 15-53-10 to 15-3-140, City is entitled to a declaration that:

a. Ordinance No. 93-16 is invalid as a matter of law because it:

   i. Modifies the Sunset Provision to authorize imposition of the 1.5% Hospitality Fee within municipalities in Horry County after the date set out in the Sunset Provision of Ordinance No. 105-96 without the consent of the Municipalities;

   ii. Is not a valid uniform service charge; and

   iii. Is not an ordinance which was in effect on or before December 31, 1996, as contemplated by S.C. Code Ann. § 6-1-330 and/or on or after March 15, 1997, as contemplated by S.C. Code Ann. § 6-1-760;

b. Ordinance No. 32-17 is invalid as a matter of law because it:

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i. Repeals the Sunset Provision to authorize imposition of the 1.5% Hospitality Fee within municipalities in Horry County after the date set out in the Sunset Provision of Ordinance No. 105-96 without the consent of the Municipalities;

ii. Is not a valid uniform service charge; and

iii. Is not an ordinance which was in effect on or before December 31, 1996, as contemplated by S.C. Code Ann. § 6-1-330 and/or on or after March 15, 1997, as contemplated by S.C. Code Ann. § 6-1-760;

c. County may not impose, collect, and retain revenues derived from the 1.5% Hospitality Fee created under Ordinance No. 105-96, as amended from time to time and as codified in County Code § 19-6, except in a manner consistent with the Fee Use Provision and for the period of time set forth in the Sunset Provision, *i.e.*, ending on January 1, 2017;

d. County has, since January 1, 2017, wrongfully imposed, collected, retained, and used revenues derived from the 1.5% Hospitality Fee created under Ordinance No. 105-96, as amended from time to time and as codified in County Code § 19-6, in contravention of the Fee Use Provision and/or the Sunset Provision;

40. City, individually and on behalf of all members of the Class, seeks and is entitled to a refund of the Hospitality Fee paid on the sale of food, beverage, accommodations, and or amusements sold within the Municipalities since January 1, 2017, based on a declaration that County has, from and after January 1, 2017, wrongfully imposed, collected, retained, and used revenues from the 1.5% Hospitality Fee created under Ordinance No. 105-96, as amended from time to time and as codified in County Code §19-6.

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Second Cause of Action
(Preliminary and Permanent Injunctive Relief)

41. The pertinent allegations of paragraphs 1-40 are incorporated into this Second Cause of Action by reference as fully as if set forth verbatim.

42. If County is permitted to continue collecting within the Municipalities the 1.5% Hospitality Fee created under Ordinance No. 105-96, as amended from time to time and as codified in County Code § 19-6, City and the members of the Class will suffer irreparable harm as they will be forced to pay an unlawful uniform service charge.

43. City and the members of the Class are likely to succeed on the merits of their claims against County because the continued collection and retention of the Hospitality Fee by County within the Municipalities on and after January 1, 2017 is unlawful, and City and other members of the Class have been subjected to payment of the Hospitality Fee to County when same was not lawfully imposed and collected.

44. City and the members of the Class have no adequate remedy at law because there is no procedure established by ordinance or by statute to protest the payment of 1.5% Hospitality Fee charges to County on and after January 1, 2017.

45. City and the members of the Class are therefore informed and believe that they are entitled to a preliminary and permanent injunction prohibiting County from:

a. Imposing and collecting the 1.5% Hospitality Fee provided for under Ordinance No. 105-96, as amended from time to time and as codified in County Code § 19-6, and

b. Expending any of the revenue generated by the 1.5% Hospitality Fee created under Ordinance No. 105-96, as amended from time to time and as codified in County Code § 19-6, collected on and after January 1, 2017, which the County

has unjustly retained under a constructive trust as described herein, including any such revenue deposited by County in the Road Special Revenue Fund described under Ordinance No. 7-97.

Third Cause of Action
(Quantum Meruit / Unjust Enrichment)

46. The pertinent allegations of paragraphs 1-46 are incorporated into this Third Cause of Action by reference as fully as if set forth verbatim.

47. In continuing to pay the Hospitality Fee imposed by County on the gross proceeds of accommodations, food and beverage, and/or amusements, City and the members of the Class have conferred a benefit on County in the form of tens of millions of dollars per year since January 1, 2017.

48. County's continued collection and retention of the 1.5% Hospitality Fee beyond January 1, 2017 and the Sunset Provision and without City's approval or any other statutory or contractual basis therefore, has further created a contract implied in law between City, the members of the Class, and County. This quasi-contract conferred upon County a duty and obligation not to collect or retain illegally charged Hospitality Fees. County has breached and continues to breach this obligation and accept the Hospitality Fees charged City and the members of the Class.

49. Upon information and belief, County deposited the illegally charged Hospitality Fee into the Road Special Revenue Fund, an interest earning account, and has thereby realized a benefit from and has been unjustly enriched through the receipt of these monies, to the detriment of City and the members of the Class.

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50. Because collection and retention of the Hospitality Fee beyond the Sunset Provision on January 1, 2017, is illegal, continued collection and retention of that benefit would be unjust, inequitable, unconscionable, and would further constitute a windfall to County.

51. City and the members of the Class are therefore informed and believe that they are entitled to damages in the form of a refund from the constructive trust imposed hereunder for the Hospitality Fee illegally collected and retained by County.

Fourth Cause of Action
(Constructive Trust)

52. The pertinent allegations of paragraphs 1-51 are incorporated into this Fourth Cause of Action by reference as fully as if set forth verbatim.

53. As described herein, County has continued to collect and retain a 1.5% Hospitality Fee on the gross proceeds of accommodations, food and beverage, and/or amusements purchased by City and the members of the Class within the Municipalities, amounting to tens of millions of dollars per year since January 1, 2017.

54. In attempting to extend and then eliminate altogether the Sunset Provision on City's prior agreement for the collection of the Hospitality Fee, through Ordinance Nos. 93-16 and 32-17, respectively, and in contravention of the express terms of the Sunset Provision and without City's or the Municipalities' consent, County employed actual or constructive fraud, abuse of confidence, and/or unconscionable conduct to continue its illegal collection and retention of the 1.5% Hospitality Fee beyond January 1, 2017 within the Municipalities.

55. Because collection and retention of the Hospitality Fee beyond the Sunset Provision on January 1, 2017, is illegal, continued collection and retention of that benefit would be unjust, inequitable, unconscionable, and would further constitute a windfall to County.

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56. City and the members of the Class are therefore informed and believe that they are entitled to the Court's imposition of a constructive trust on County, in the form of a segregated, interest bearing account into which the Hospitality Fee collected by County from within the Municipalities since January 1, 2017 should be transferred to create a common fund, and from which refunds may be provided to City and the members of the Class in proportion to the Hospitality Fees each has been illegally subjected by County.

Prayer for Relief

Wherefore, City, individually and on behalf of all Class Members, prays for judgment against County as follows:

a. The issuance of an order by this Court finding that:

   i. The Hospitality Fee imposed and collected by County at the rate of 1.5% within the Municipalities pursuant to Ordinance No. 105-96, as amended from time to time and as codified in County Code § 19-6, was terminated as a matter of law on January 1, 2017;

   ii. The Hospitality Fee imposed and collected by County at the rate of 1.5% within the Municipalities pursuant to said ordinance on or after January 1, 2017, were unlawfully imposed, collected, and retained;

   iii. County be preliminarily and permanently enjoined from imposing or collecting any fees at the rate of 1.5% under said ordinance within the Municipalities;

   iv. County has been unjustly enriched by said collection and retention of the 1.5% Hospitality Fee in the Municipalities since January 1, 2017;

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v. The imposition of a constructive trust on the County for all Hospitality Fees collected from within the Municipalities since January 1, 2017, is warranted; and

vi. City and the members of the Class be entitled to a refund of the 1.5% Hospitality Fee imposed and collected by County within the Municipalities on or after January 1, 2017, in an amount to be shown at trial.

b. An award of prejudgment interest at the appropriate statutory rate on all fees collected by the County from the City and each of the members of the Class pursuant to Ordinance No. 105-96, as amended from time to time and as codified in County Code § 19-6, on or after January 1, 2017; and

c. For such other and further relief as may be just and proper.

Respectfully submitted,

s/Chad N. Johnston

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Attorneys for Plaintiff City of Myrtle Beach and All Others Similarly Situated

Columbia, South Carolina
March 20, 2019

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Exhibit A

TRANSPORTATION and HORRY COUNTY

REPORT

to the

Honorable David M. Beasley
Governor of South Carolina

prepared by:

The Road Improvement
and Development Effort
September 1996

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PREFACE

To those before us ...

South Carolina's Grand Strand has grappled with solutions to severe traffic congestion since 1984, when the Myrtle Beach Chamber of Commerce created the Area Council on Transportation (ACT). The purpose of ACT was to inform state officials of dangerous travel conditions and potential revenue losses statewide resulting from increasing tourism and commuter traffic on U.S. Highways 17 and 501. ACT's efforts to raise the consciousness of elected officials were successful, but the only solution proposed in the mid-1980s was the controversial Conway Bypass, for which state funding and grass roots support were limited.

Community business leaders saw the Conway Bypass as one step in what should have been a multi-step plan to save lives and foster tourism growth. As ACT worked diligently on trying to make the Conway Bypass a reality, a group of local leaders called the Planning Council, initiated work on what was later to become the Carolina Bays Parkway. This led to the formation of the Carolina Bays Parkway Task Force by then State Highway Commissioner Billy Alford in November 1990, which became a named demonstration project in the *Intermodal Surface Transportation Efficiency Act of 1991*. The Carolina Bays Parkway unlike the Conway Bypass had grass roots support but no way to fund its construction.

For over a decade, no planning or funding mechanism evolved to build the much needed highways in Horry County until leaders initiated an unsuccessful local option sales tax referendum in March 1996. Meanwhile economic forecasts reported South Carolina was losing approximately $1 billion annually in revenue due to heavy traffic driving visitors to North Carolina beaches and other vacation sites.

Survey for the future

This loss of revenue continues to threaten South Carolina's economy and endangers lives. That's why Governor David Beasley called upon his own staff, the Horry County Legislative Delegation, and local citizens to form an emergency response team to recommend immediate action to address traffic safety and its corollary concerns: job preservation and hurricane evacuation.

The Governor of South Carolina, working through the South Carolina Department of Transportation, has taken the initiative to: (1) survey the transportation infrastructure needs of Horry County for the next 20 to 30 years (identifying short term, as well as long term needs); and (2) evaluate how these needs can best be financially realized and implemented.

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The Chairman of the South Carolina Department of Transportation, at the direction of the Governor, created the Road Improvement and Development Effort Committee (RIDE) to determine short and long term transportation infrastructure needs and improvements for Horry County along with various options to fund these improvements.

The RIDE Committee

The RIDE Committee consists of nine people with varied backgrounds and interests: Mr. Gary M. Loftus (Chairman), Mr. Frankie Blanton (Vice Chairman), Mr. Edward Bouknight (concerned citizen), Mr. Harry Charles (Councilman, City of Myrtle Beach), Mr. James Frazier (Councilman, Horry County), Mr. John Kost (Councilman, Horry County), Mr. Edward Rodelsperger (Horry County School Board), Ms. Suzette Rogers (Myrtle Beach Chamber of Commerce Board of Directors), and Mr. Frank Thompson (concerned citizen). The Committee was formed in May 1996 to perform an analysis of road needs, possible funding sources, and oversee the development of a report to be submitted to the Governor in September 1996.

The Committee collected technical information from various engineering and planning groups and individuals concerning transportation issues and held several public meetings throughout Horry County. Concurrently, the Committee attempted to develop an understanding of social, technical, political, and jurisdictional issues which have complicated the solutions and frustrated previous efforts of both the public and private sectors.

This report responds to the Governor's directive through the sections outlined below:

- Section 1 - Introduction
- Section 2 - Short Term Recommendations
- Section 3 - Long Term Recommendations
- Section 4 - Financing Recommendations
- Section 5 - Implementation Recommendations
- Section 6 - Conclusion

Thanks and Appreciation

The Committee received invaluable assistance and support from City, County, State, and Federal personnel familiar with various aspects of the transportation problem. They, together with knowledgeable private citizens, made this report possible in the short time allowed. Their data, candor, and most important, their apparent eagerness to participate in a problem-solving effort too large for any one entity was critical in maintaining focus and momentum toward the success of this report. For their help we are very grateful.

The Committee would like to acknowledge the assistance, cooperation, and guidance of the South Carolina Department of Transportation Chairman, Mr. H.B. "Buck" Limehouse, the personnel of the Department who provided information and services necessary for the preparation of this report, and Mr. Robert Probst of the Federal Highway Administration.

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Section 1.0
INTRODUCTION

"Urgent steps must be taken to better maintain our highways and airways or South Carolina faces a transportation crisis."
-- David E. Parson, President of AAA Carolinas.

Following an unsuccessful referendum vote on Horry County's Comprehensive Road Plan on March 5, 1996, the Chairman of the South Carolina Department of Transportation (SCDOT), at the direction of the Governor, created the Road Improvement and Development Effort Committee (RIDE). This Committee was charged with the development of a roadway improvement plan that would relieve traffic congestion in Horry County through implementation of short and long term solutions. The Committee also was directed to develop a potential funding program that would address Horry County's short term needs, as well as provide ideas that might be implemented to fund the long term requirements.

REFERENDUM HISTORY

In January 1995, Horry County Council instructed the County Administrator to develop a road plan that combined existing efforts in order to accomplish the construction of major projects (such as the Conway Bypass and Carolina Bays Parkway) and provide improved mobility for the citizens of Horry County.

Horry County Comprehensive Road Plan

For years, many interested individuals and organizations worked on individual components of what became ultimately the Comprehensive Road Plan that had been endorsed by the Horry County Council and the Horry County Legislative Delegation. These organizations included the Area Council on Transportation (ACT), Carolina Bays Parkway Task Force, Council of Myrtle Beach Business Organizations (COMBO), Horry County Transportation Committee (CTC) appointed by the Legislative Delegation, Grand Strand Area Transportation Study (GSATS), and Horry County Department of Public Works through funds appropriated by the Horry County Council. Legislation passed during the 1995 session of the South Carolina General Assembly provided the local option sales tax for roads as a possible source of revenue allowing a much broader approach to be taken to solve the transportation needs. Horry County's Comprehensive Road Plan suggested that the combination of talents and resources that might have contributed to an innovative and pro-active model for highway construction statewide. Working together, the organizations pooled their resources to try to produce mega projects such as the Conway Bypass and Carolina Bays Parkway while at the same time providing much needed relief in rural areas along with the expansion of two critical state routes.

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Traditional methods of highway construction were very quickly determined to be inadequate or nonexistent in view of statements made by the SCDOT and the Federal Highway Administration concerning the availability of funding. Specifically, the SCDOT indicated that the Conway Bypass might be built by the year 2019 but did not suggest any way to construct the Carolina Bays Parkway, upgrade S.C. 544 or S.C. 9, and did not address rural needs at all.

Utilizing existing statistical data and projections produced by the E. Craig Wall Sr. School of Business Administration and Computer Science at Coastal Carolina University, the Comprehensive Road Plan recommended combining a number of funding sources including the local option sales tax for infrastructure that required a referendum. Based on sales tax figures and utilizing the 25-year sunset clause in the enabling legislation, it was possible to project total revenues available through the addition of the one percent local option sales tax. This resource, in combination with a local hospitality fee and other sources, such as the CTC state gas tax dollars called "C" funds, GSATS funds, and County Department of Public Works funds, provided $2.49 billion in revenues for the construction of projects and the amortization of associated general obligation debts. Projects identified by Horry County Council for construction included the Conway Bypass, Carolina Bays Parkway, S.C. 544 (five lanes between the Socastee bridge and Conway), S.C. 9 (four lanes from Green Sea to county line), and paving of approximately 600 miles of the 970 total miles of county dirt roads, for a total estimated construction cost of $1.48 billion.

But the referendum failed by a margin of greater than 2:1 . . .

THE RIDE COMMITTEE

RIDE Committee

The RIDE Committee, formed in May 1996, held their first meeting on May 16, 1996. The Committee met every Thursday after that (with the exception of July 4, 1996, and July 12, 1996 due to Hurricane Bertha) and twice weekly beginning July 29, 1996 through August 23, 1996. The Committee also held three public meetings (June 17, 1996, June 24, 1996, and July 1, 1996, Appendix A), at which they received public input, prior to formulating their plan.

The following sections of this Report, present our recommendations to the Governor.

"Make big plans; aim high in hope and work ..."
-- Daniel Burham

THE PROPOSED SHORT TERM PLAN

The short term improvement recommendations, as described below, include projects that are currently ongoing and projects that could be implemented by the year 2005 (Table 1). These projects will incorporate portions of the GSATS Long Range Plan as approved in March 1996. As shown in the figure titled Recommended Short Term Improvements, the proposed short term plan includes:

- **Conway Bypass** - construct the six-lane section (as originally designed) between U.S. 17 and Long Bay Road, with an interchange at Long Bay Road or the Carolina Bays Parkway. From Long Bay Road to S.C. 90, construct six lanes of fill and bridges but pave four lanes. From S.C. 90 to S.C. 905, construct three lanes of fill and bridges but pave two lanes. From S.C. 905 to S-97, construct two lanes of fill and bridges and pave both lanes.

  The RIDE Committee proposes that the SCDOT fund the portion of the Conway Bypass between U.S. 17 and S.C. 90 as "*Advance Construction*" under federal guidelines and "*set aside*" federal funding in the next 25 years in the State Transportation Improvement Program (STIP) to "*pay back*" the initial early completion of the project. The impact to Federal Highway Administration funding provided to SCDOT would not be adversely affected in any given year, but instead the payment requirements would be spread evenly over the Federal Program for up to 25 years, causing much the same effect as building the project over time. The advantages of this funding scenario are: (1) early completion of the Conway Bypass would immediately relieve congestion in Conway, improve safety, and provide an additional hurricane evacuation route in the area and would enhance other solutions proposed by the RIDE Committee; (2) the SCDOT would avoid the inflation on construction costs over the next 25 years (which would possibly double in cost); and, (3) the Conway Bypass could be completed with efficiencies gained from a design/build concept.

- **Carolina Bays Parkway** - construct six lanes of fill and bridges but pave four lanes of the Parkway from S.C. 9 to the intersection of Perry Road and River Oaks Drive Extension (including Central Parkway Connector which would be four lanes). Intersections with S.C. 9 and Central Parkway will be signalized at-grade intersections.

- S.C. 544 - widen to five lanes between the Socastee bridge and U.S. 501 to improve capacity and, accelerate the construction of the five lane section between U.S. 17 and the Socastee bridge.

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Table 1
RECOMMENDED SHORT TERM IMPROVEMENTS

PROJECTS	RESPONSIBLE PARTY	*PRELIMINARY* PROJECT COST (1996 $)	METHOD OF PAYMENT	
			$330,000,000 BOND ISSUE	HORRY COUNTY RESIDUAL CASH FLOW*
CONWAY BYPASS				
Existing design from U.S. 17 to Long Bay Road (6-lane section, including U.S. 17 interchange)	SCDOT/FHWA/ RIDE	$65,900,000	"Advance Construction"	
Diamond interchange at Long Bay Road and Conway Bypass	SCDOT/FHWA/ RIDE	$6,100,000		
Long Bay Road to S.C. 90 (6-lane fill and bridges, paving 4 lanes)	SCDOT/FHWA/ RIDE	$54,400,000		
Diamond interchange at S.C. 90 and Conway Bypass	SCDOT/FHWA/ RIDE	$7,800,000		
S.C. 90 to S.C. 905 (3-lane fill and bridges, paving 2 lanes)	RIDE/ STATE OF S.C.	$37,100,000	$37,100,000	
S.C. 905 to S-97 (2-lane fill and bridges, paving 2 lanes)	RIDE/ STATE OF S.C.	$42,000,000	$42,000,000	
Estimated Program Cost (1996 $)		$193,300,000	$79,100,000	
CAROLINA BAYS PARKWAY				
S.C. 9 to Conway Bypass (6-lane fill and bridges, paving 4 lanes, approximately 7.8 miles)	RIDE/ STATE OF S.C.	$55,900,000	$31,700,000	$24,200,000
Conway Bypass to Central Parkway Connector (6-lane fill and bridges, paving 4 lanes, approximately 6.2 miles)	RIDE/ DEVELOPERS	$47,300,000	$25,800,000	$21,500,000
Central Parkway Connector (approximately 1.8 miles)	RIDE/ STATE OF S.C.	$38,600,000	$38,600,000	
Central Parkway Connector to Perry Road (6-lane fill and bridges, paving 4 lanes, approximately 0.8 miles)	RIDE/I.P	$6,700,000		$6,700,000
Estimated Program Cost (1996 $)		$148,500,000	$96,100,000	$52,400,000

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Table 1
RECOMMENDED SHORT TERM IMPROVEMENTS

PROJECTS	RESPONSIBLE PARTY	*PRELIMINARY* PROJECT COST (1996 $)	METHOD OF PAYMENT	
			$330,000,000 BOND ISSUE	HORRY COUNTY RESIDUAL CASH FLOW*
CENTRAL PARKWAY				
48th Avenue North to 29th Avenue North	RIDE/ STATE OF S.C.	$10,400,000	$10,400,000	
21st Avenue North to 10th Avenue North	RIDE/ STATE OF S.C.	$5,200,000	$5,200,000	
10th Avenue North to U.S. 501	RIDE/ STATE OF S.C.	$6,000,000	$6,000,000	
U.S. 501 to Harrelson Boulevard (S-600)	RIDE/ STATE OF S.C.	$6,600,000	$6,600,000	
Estimated Program Cost (1996 $)		$28,200,000	$28,200,000	
Fantasy Harbour Bridge Interchange (with U.S. 17)	STATE OF S.C./ RIDE	$12,000,000	$12,000,000	
City of Conway Perimeter Road (U.S. 501 to U.S. 378, approximately 0.8 miles with interchanges at U.S. 501/ S-165 and U.S. 378)	STATE OF S.C./ RIDE	$13,000,000	$13,000,000	
U.S. 17/U.S. 501 Interchange (complete)	STATE OF S.C./ RIDE	$12,300,000	$12,300,000	
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)	RIDE/ STATE OF S.C.	$7,500,000	$7,500,000	
S.C. 544 (5-lane section between U.S. 17 and Socastee Bridge)	GSATS (accelerated)	$7,100,000	$7,100,000	
S.C. 544 (5-lane section between Socastee Bridge and U.S. 501)	RIDE/ STATE OF S.C.	$52,000,000	$3,600,000	$48,400,000
S.C. 90 (intersection improvements between Conway Bypass and S.C. 9)	RIDE/ STATE OF S.C.	$4,500,000	$4,500,000	
S-31/S-66 (intersection improvements)	RIDE/ STATE OF S.C.	$7,200,000	$7,200,000	

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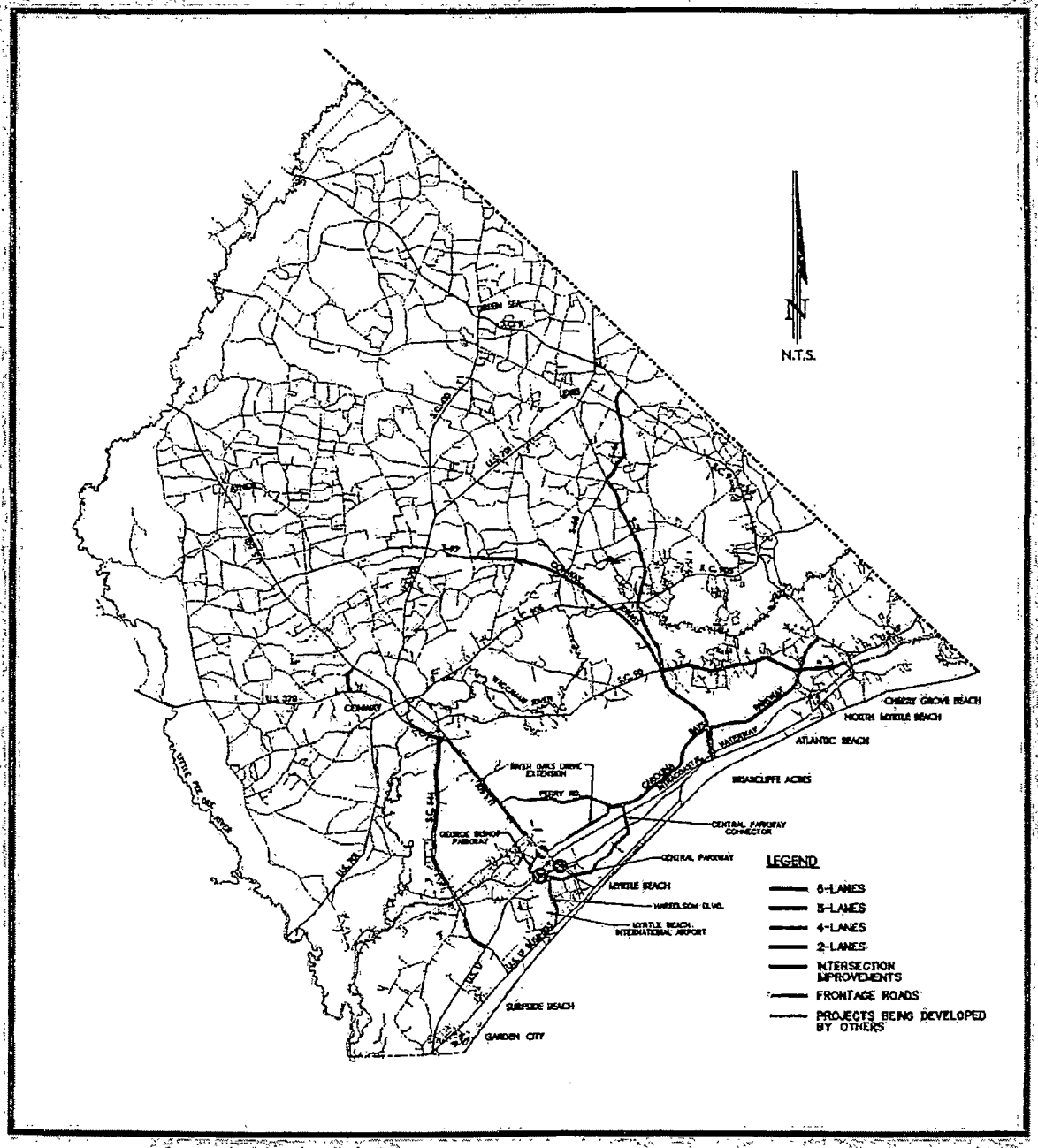
Table 1
RECOMMENDED SHORT TERM IMPROVEMENTS

PROJECTS	RESPONSIBLE PARTY	*PRELIMINARY* PROJECT COST (1996 $)	METHOD OF PAYMENT	
			$330,000,000 BOND ISSUE	HORRY COUNTY RESIDUAL CASH FLOW*
Implementation of *Proposal for the Development of the Grand Strand Area Congestion Management Program*	RIDE/ STATE OF S.C.	$4,500,000	$4,500,000	
U.S. 501 (frontage road system, Atlantic Intracoastal Waterway bridge to Forestbrook Road including the interchange at Forestbrook Road)	RIDE/ STATE OF S.C.	$40,800,000	$40,800,000	
U.S. 501/Perry Road Interchange	RIDE/ STATE OF S.C.	$10,000,000	$10,000,000	
U.S. 501 (acceleration/deceleration lanes, eliminating median breaks where they are not needed)	RIDE/ STATE OF S.C.	$4,000,000	$4,000,000	
SUBTOTAL	RIDE/ STATE OF S.C.	$416,900,000	$322,800,000	$94,100,000
SUBTOTAL ("Advance Construction")	STATE OF S.C./ RIDE	$114,200,000		
SUBTOTAL (Accelerated)	GSATS	$7,100,000	$7,100,000	
SUBTOTAL	RIDE/ DEVELOPERS	$6,700,000		$6,700,000
GRAND TOTAL		$544,900,000		
STATE OF S.C./RIDE et al		$423,600,000	$329,900,000	$100,800,000

NOTE: * Horry County Residual Cash Flow, refer to Tables 4 and 5 in Section 4, column labeled "Future Project Debt Service Available."

Recommended Short Term Improvements



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- **Conway Perimeter Road** - construct a bypass of Conway on the south side from U.S. 501 between S-165 and U.S. 378, thereby giving motorists an option to either traverse Conway on U.S. 501 or turn off on S-165 and use U.S. 378 to avoid the congestion through Conway, particularly in the vicinity of the intersection of 16th Avenue and U.S. 501.
- **Metropolitan Loop** - connect the projects that are currently planned or underway. These projects are the Fantasy Harbour bridge, River Oaks Drive Extension, and Central Parkway between 38th Avenue North and U.S. 501. The completion of the Loop would require the construction of the rest of Central Parkway between U.S. 501 and the Fantasy Harbour bridge, and between 38th Avenue North and the Central Parkway Connector of the Carolina Bays Parkway, all four lanes. In addition, construction of an interchange at the intersection of the Fantasy Harbour bridge, U.S. 17, Central Parkway, and Harrelson Boulevard, as well as an overpass at the intersection of U.S. 501 and George Bishop Parkway, would be required.
- **U.S. 501** - construct the frontage road system between the Atlantic Intracoastal Waterway and Forestbrook Road, as well as the interchange at Forestbrook Road. Also, construct an interchange at Perry Road, install acceleration and deceleration lanes at median breaks (which may require the elimination of several of the existing median breaks) between Forestbrook Road and the Waccamaw River, and completion of the U.S. 17/U.S. 501 interchange.
- **Intersection Improvements** - perform intersection improvements on S.C. 90 (between the Conway Bypass interchange and S.C. 9), S-31 (between S.C. 90 and S-66), and S-66 (between S-31 and S.C. 9 in Loris).

Looking toward the Future

- Implementation of all or portions of the *Proposal for the Development of the Grand Strand Area Congestion Management Program* (SCDOT Traffic Engineering, June 1996), including implementation of the SHEP Program in the GSATS area.

In addition to the implementation of the projects outlined in Table 1 and the Recommended Short Term Improvements illustration, the RIDE Committee requests:

1. Passage of enabling legislation to create the Infrastructure Bank, so that the South Carolina Department of Transportation can receive federal funding identified in the recent federal legislation. The SCDOT is one of the ten pilot states identified and this would provide *"seed money"* for road projects statewide.
2. Amendment of the enabling legislation passed during the 1995 session of the South Carolina General Assembly relating to funding of highway projects through the implementation of a local option sales tax or tolls. The elimination of the referendum requirement for tolling if the project costs exceed $150 million would allow necessary projects to proceed at a faster pace and lower cost.

3. Clarification and amendment of *ALL* legislation regarding tolling to allow greater flexibility and innovation. Currently, tolls from Project A cannot be used to construct Project B, even though they may be connected. This and other restrictions, need to be addressed.

4. Assignment of additional troopers and an additional District Supervisor (Lieutenant) to Horry County on a permanent basis. This will assist with the prevention of accidents, thus improving the public safety and welfare and providing increased mobility under existing conditions. As a side note, we wish to thank the South Carolina Department of Public Safety for increasing the number of troopers assigned to Horry County during the 1996 summer season. Their presence and assistance were greatly appreciated.

5. Coordination with the U.S. Fish and Wildlife Service to ensure that *ALL* wildlife refuge proposals do not hinder the implementation of long term highway requirements in Horry County, including the GSATS Long Range Transportation Plan.

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Section 3.0
LONG TERM RECOMMENDATIONS

Where do we go from here?

WHERE WE ARE NOW

The historic solution to transportation needs of Horry County has been crisis-oriented with piecemeal planning and construction being performed in an uncoordinated manner. Planning for the future should integrate the multimodal approach (road, bicycle, pedestrian, and transit) proposed by GSATS. This integration should involve principal participants at all levels (federal, state, regional, and local). The RIDE Committee, therefore, recommends that a strategic planning approach utilizing the GSATS Long Range Plan be applied under the leadership of the *"group"* chosen to implement the short term recommendations, as outlined in Section 5.

Path to the Future

THE FUTURE

Applying the strategic planning approach to Horry County should involve not only innovative thinking regarding needs for the next 20 to 30 years but also consider community goals and values. The future could be implemented in degrees, in order for it to be workable, and should focus on all aspects (social, technical, environmental, and economic) but with a *"vision"* to a comprehensive transportation network. The argument for a specific *"group"* to play a fundamental role in no way excuses the responsibilities of federal, state, or local governments, but would produce a mechanism that would eliminate the long, tedious process of multi-phased assessment, review, and approval. This *"group"* could be given the authority to certify projects in a one-step process and thereby reduce the involvement of federal, state, or local governments.

In order to meet the challenge of integration, all boundaries (technical and political) must be eliminated to create the act of *"achieving"* not just planning.

DETAILING THE PLAN

The RIDE Committee recognizes and applauds the extensive work that has been performed by others before them, and desires to advance these efforts by developing a management plan which would address regulatory, financial, and operational needs for a successful transportation plan. This transportation plan should involve the detailed study that was prepared and approved by the Grand Strand Area Transportation Study in March 1996 (Appendix B). Additionally, the RIDE Committee has added several projects

"Change unfair federal formulas for federal funding ... stop government from using dollars raised in South Carolina elsewhere."
-- U.S. Senator Strom Thurmond

that are not considered in the GSATS Long Range Plan, most of which are outside the GSATS Study Area, but in Horry County. The list of improvements that are offered for consideration is outlined in Table 2 and illustrated on the figure titled Recommended Long Term Improvements.

In addition to the consideration of the projects outlined in Table 2 and Recommended Long Term Improvements illustration, the RIDE Committee requests that the State find solutions to keep South Carolina from being a donor state and increase the funding for the SCDOT. Additionally, the State needs to address the total funding requirements for road construction and maintenance. Current funding mechanisms are inadequate and the formulas used need to be reviewed and overhauled.

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Long Term Projects

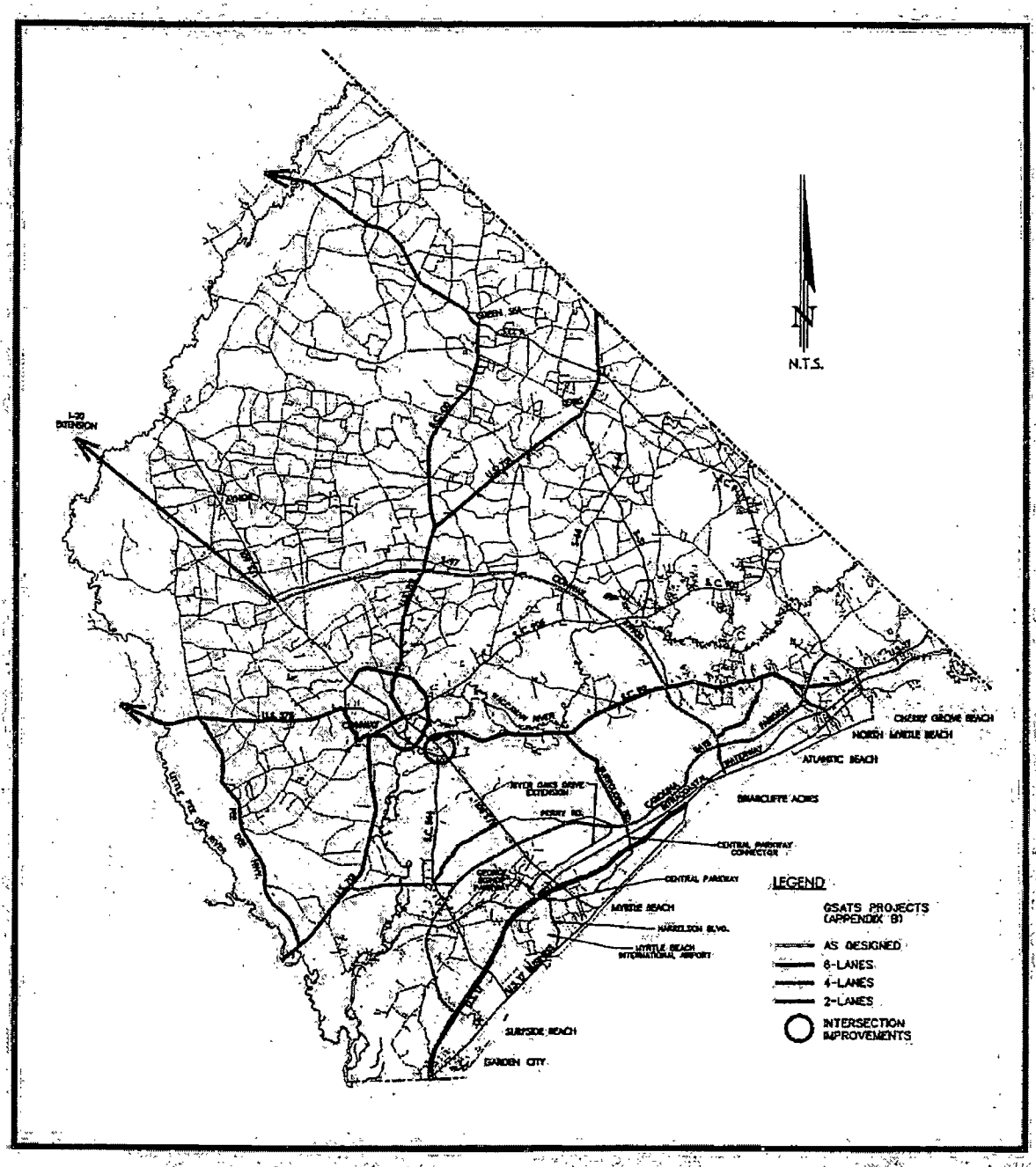
Table 2

RECOMMENDED LONG TERM IMPROVEMENTS

- GSATS Long Range Plan (as approved March 1995, Appendix B)
- Conway Bypass (as designed, 6 lanes between U.S. 17 and S.C. 905 and 4 lanes between S.C. 905 and U.S. 501)
- Carolina Bays Parkway (as designed, 6 lanes from S.C. 9 to U.S. 17, including a 4 lane crossing of the Atlantic Intracoastal Waterway in North Myrtle Beach)
- Fire/Water Tower Road (2-lanes between Conway Bypass and S-1029 [paved section])
- Burroughs Road (2-lanes between Carolina Bays Parkway and S.C. 90, approximately 8.4 miles)
- Perry Road (4-lanes between U.S. 501 and S.C. 544)
- U.S. 501 (6-lanes with frontage roads between Forestbrook Road and Conway)
- Ocean Boulevard in Atlantic Beach
- S.C. 9 (4-lanes between Green Sea and Horry County line)
- Big Block Road through the MBAFB to Ocean Boulevard
- U.S. 17 (6-lanes between Inlet Square Mall and U.S. 17/U.S. 17 Business interchange)
- U.S. 701 (4-lanes from Conway to Loris)
- S.C. 410 (4-lanes from U.S. 701 to S.C. 9)
- Loris to Tabor City Connector
- U.S. 701 (4-lanes, Conway to Georgetown)
- Conway Perimeter Road (complete the bypass around Conway)
- Pee Dee Road (4-lanes between U.S. 701 and U.S. 378)
- Florence to Conway Connector (I-20 extension)
- U.S. 378 (4-lanes, Conway to Horry County line)
- S.C. 90 (4-lanes between Conway and S.C. 9/U.S. 17 interchange)
- U.S. 501/S.C. 544/S.C. 90 interchange
- Community Bus System (shared bus system with hotels/motels)

NOTE: Should the proposed funding scenario for the short term recommendations have a surplus, it is the recommendation of the RIDE Committee that projects from this list be implemented as short term projects.

Recommended Long Term Improvements



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Section 2.0
SHORT TERM RECOMMENDATIONS

"If we first know where we are, and whither we are tending, we could then better judge what to do and how to do it."
-- Abraham Lincoln

THE CRISIS

Horry County and the Grand Strand have become the second most popular resort area on the East Coast. The region, under the guidance of the Grand Strand Area Transportation Study (GSATS), is looking for a *"vision"* that provides accessibility to the Grand Strand, as well as internal mobility. Based on the *"vision,"* the current transportation system will not accommodate future traffic demands and therefore a solution was developed in the form of the GSATS Long Range Plan (approved but not funded March 1996, Appendix B).

WHAT IT WILL COST

Realizing that it is futile to depend exclusively on highway expansion, the region is considering a multimodal approach that will provide a balanced system. The system will include appropriate transit, bicycle, and pedestrian systems, as well as highways. This plan, however, has an estimated cost of $2.4 billion for: highway $1.74 billion, transit $0.67 billion, and other $0.01 billion, with a long list of funding options that would require participation from federal, state, and local sources.

Although the RIDE Committee recognizes the appropriateness of this plan, we have chosen to focus on a short term solution which in turn would lead to the implementation of the GSATS Long Range Plan.

"If we can't meet our infrastructure needs, we can't [expand] the private sector."
-- Honorable David M. Beasley

THE NEXT STEP

Confronted with the magnitude and complexity of the transportation needs, the RIDE Committee initiated their program by receiving input from entities involved in transportation issues in Horry County. These entities included both the public and private sectors. Based on the data received and from the information presented by local citizens at the public meetings, the Committee defined two improvement options: (1) short term improvements that could be implemented between 1996 and 2005 which would provide traffic congestion relief; and (2) long term improvements that could be implemented and completed between 2005 and 2025.

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Table 3
10-, 15-, AND 20-YEAR PROJECTED REVENUE STREAM

FISCAL YEAR (7/1-6/30)	1.5-PERCENT HOSPITALITY FEE*				TOTAL INFLOW	TOTAL REVENUES
			HORRY COUNTY			
	Myrtle Beach	North Myrtle Beach	Additional Incorporated Areas	Unincorporated Areas		
96/97	$8,579,404	$2,211,933	$481,708	$3,403,325	$14,676,370	
97/98	$9,094,168	$2,344,649	$510,610	$3,607,525	$15,556,952	
98/99	$9,639,818	$2,485,328	$541,247	$3,823,976	$16,490,369	
99/00	$10,218,207	$2,634,448	$573,722	$4,053,415	$17,479,791	
00/01	$10,831,300	$2,792,514	$608,145	$4,296,619	$18,528,579	
01/02	$11,481,178	$2,960,065	$644,634	$4,554,417	$19,640,294	
02/03	$12,170,049	$3,137,669	$683,312	$4,827,682	$20,818,711	
03/04	$12,900,251	$3,325,929	$724,311	$5,117,342	$22,067,834	
04/05	$13,674,267	$3,525,485	$767,769	$5,424,383	$23,391,904	
05/06	$14,494,723	$3,737,014	$813,836	$5,749,846	$24,795,418	← $193,446,223
06/07	$15,364,406	$3,961,235	$862,666	$6,094,837	$26,283,143	
07/08	$16,286,270	$4,198,909	$914,426	$6,460,527	$27,860,132	
08/09	$17,263,446	$4,450,844	$969,291	$6,848,159	$29,531,740	
09/10	$18,299,253	$4,717,894	$1,027,449	$7,259,048	$31,303,644	
10/11	$19,397,208	$5,000,968	$1,089,096	$7,694,591	$33,181,863	← $341,606,746
11/12	$20,561,041	$5,301,026	$1,154,441	$8,156,266	$35,172,775	
12/13	$21,794,703	$5,619,088	$1,223,708	$8,645,642	$37,283,141	
13/14	$23,102,386	$5,956,233	$1,297,130	$9,164,381	$39,520,130	
14/15	$24,488,529	$6,313,607	$1,374,958	$9,714,244	$41,891,338	
15/16	$25,957,840	$6,692,423	$1,457,455	$10,297,098	$44,404,818	← $539,878,947

NOTE: * Assumes a 6-percent rate of annual growth.

SOURCE: Coastal Carolina University, E. Craig Wall Sr. School of Business Administration and Computer Science, June 6, 1996.

PROPOSED PROJECT SCHEDULE FOR SHORT TERM RECOMMENDATIONS

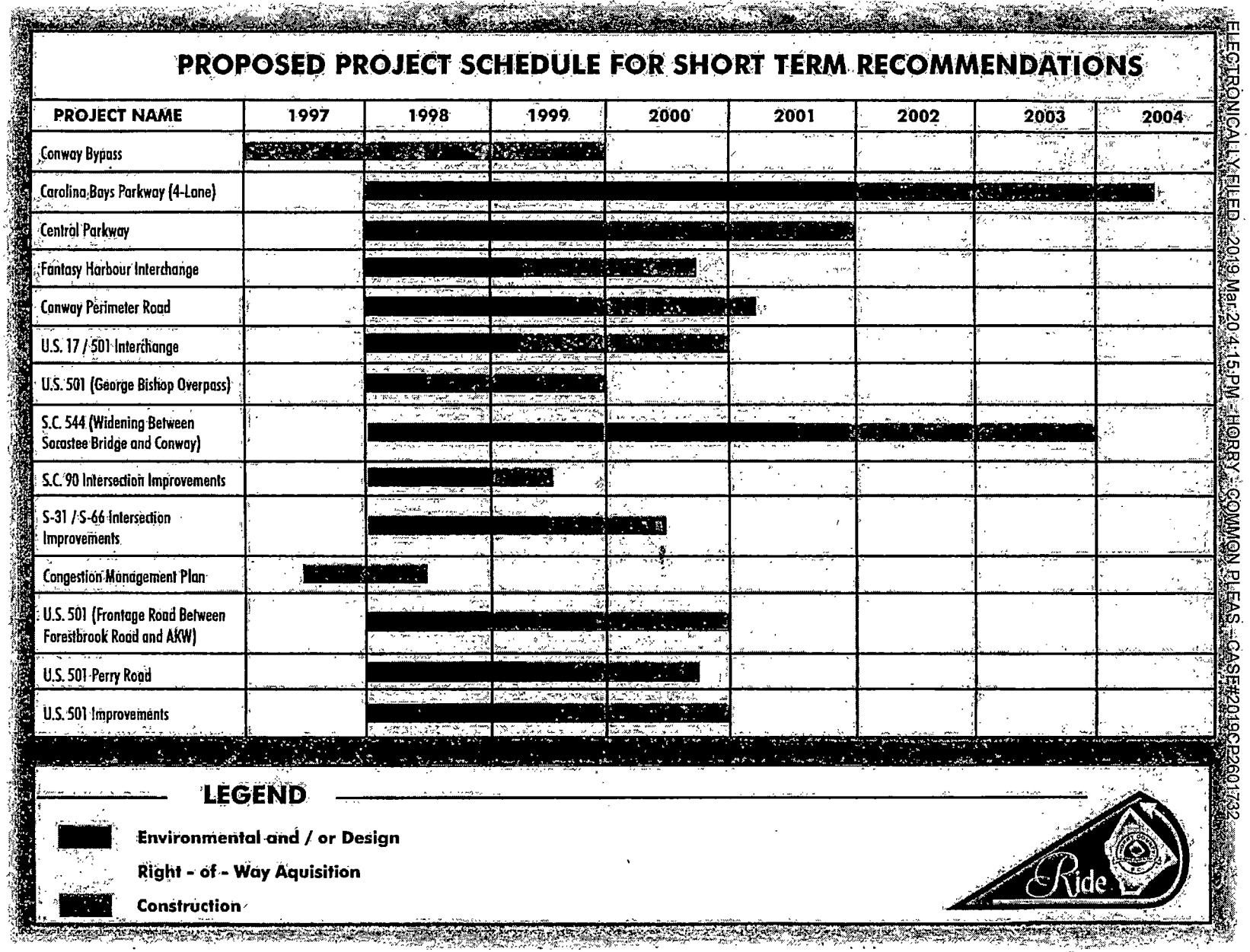

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Table 4
PROJECTED DEBT SERVICE - 15-YEAR SCENARIO

FISCAL YEAR (7/1-6/30)	1.5-PERCENT HOSPITALITY FEE* TOTAL COUNTY REVENUES	FUTURE PROJECT DEBT SERVICE AVAILABLE	CURRENT DEBT SERVICE AVAILABLE	ESTIMATED DEBT SERVICE ON $330,000,000 LOAN (6.5% FOR 15 YEARS)	CURRENT DEBT SERVICE SHORTFALL (*STATE CONTRIBUTION*)
96/97	$14,676,370	$0	$14,676,370	$35,096,418	($20,420,048)
97/98	$15,556,952	$1,414,268	$14,142,684	$35,096,418	($20,953,734)
98/99	$16,490,369	$2,851,965	$13,638,404	$35,096,418	($21,458,014)
99/00	$17,479,791	$4,346,965	$13,132,826	$35,096,418	($21,963,592)
00/01	$18,528,579	$5,873,310	$12,655,269	$35,096,418	($22,441,149)
01/02	$19,640,294	$7,445,217	$12,195,077	$35,096,418	($22,901,341)
02/03	$20,818,711	$9,067,091	$11,751,620	$35,096,418	($23,344,798)
03/04	$22,067,834	$10,743,546	$11,324,288	$35,096,418	($23,772,130)
04/05	$23,391,904	$12,479,408	$10,912,496	$35,096,418	($24,183,922)
05/06	$24,795,418	$14,279,740	$10,515,678	$35,096,418	($24,580,740)
06/07	$26,283,143	$16,149,853	$10,133,290	$35,096,418	($24,963,128)
07/08	$27,860,132	$18,095,326	$9,764,806	$35,096,418	($25,331,612)
08/09	$29,531,740	$20,122,018	$9,409,722	$35,096,418	($25,686,696)
09/10	$31,303,644	$22,236,093	$9,067,551	$35,096,418	($26,028,867)
10/11	$33,181,863	$24,444,041	$8,737,822	$35,096,418	($26,358,596)
TOTAL	$341,606,746	$169,548,843	$172,057,903	$526,446,270	($354,388,367)
PRESENT VALUE (1996 $) AT 6.5%		$87,553,940			

NOTES: * Assumes a 6-percent rate of annual growth.
Assumes that four lanes of the Carolina Bays Parkway will be constructed between S.C. 9 and Perry Road, as well as the Central Parkway Connector, and S.C. 544 will be widened to five lanes between the Socastee bridge and Conway, using the $330 million bond issue and monies available under the "Future Project Debt Service Available."

SOURCE: Coastal Carolina University, E. Craig Wall Sr. School of Business Administration and Computer Science, June 6, 1996.
South Carolina Department of Transportation, August 28, 1996.

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Table 5
PROJECTED DEBT SERVICE - 20-YEAR SCENARIO

FISCAL YEAR (7/1-6/30)	1.5-PERCENT HOSPITALITY FEE* TOTAL COUNTY REVENUES	FUTURE PROJECT DEBT SERVICE AVAILABLE	CURRENT DEBT SERVICE AVAILABLE	ESTIMATED DEBT SERVICE ON $330,000,000 LOAN (6.5% FOR 20 YEARS)	CURRENT DEBT SERVICE SHORTFALL (*STATE CONTRIBUTION*)
96/97	$14,676,370	$0	$14,676,370	$29,949,610	($15,273,240)
97/98	$15,556,952	$1,414,268	$14,142,684	$29,949,610	($15,806,926)
98/99	$16,490,369	$2,851,965	$13,638,404	$29,949,610	($16,311,206)
99/00	$17,479,791	$4,346,965	$13,132,826	$29,949,610	($16,816,784)
00/01	$18,528,579	$5,873,310	$12,655,269	$29,949,610	($17,294,341)
01/02	$19,640,294	$7,445,217	$12,195,077	$29,949,610	($17,754,533)
02/03	$20,818,711	$9,067,091	$11,751,620	$29,949,610	($18,197,990)
03/04	$22,067,834	$10,743,546	$11,324,288	$29,949,610	($18,625,322)
04/05	$23,391,904	$12,479,408	$10,912,496	$29,949,610	($19,037,114)
05/06	$24,795,418	$14,279,740	$10,515,678	$29,949,610	($19,433,932)
06/07	$26,283,143	$16,149,853	$10,133,290	$29,949,610	($19,816,320)
07/08	$27,860,132	$18,095,326	$9,764,806	$29,949,610	($20,184,804)
08/09	$29,531,740	$20,122,018	$9,409,722	$29,949,610	($20,539,888)
09/10	$31,303,644	$22,236,093	$9,067,551	$29,949,610	($20,882,059)
10/11	$33,181,863	$24,444,041	$8,737,822	$29,949,610	($21,211,788)
11/12	$35,172,775	$26,752,692	$8,420,083	$29,949,610	($21,529,527)
12/13	$37,283,141	$29,169,243	$8,113,898	$29,949,610	($21,835,712)
13/14	$39,520,130	$31,701,283	$7,818,847	$29,949,610	($22,130,763)
14/15	$41,891,338	$34,356,813	$7,534,525	$29,949,610	($22,415,085)
15/16	$44,404,818	$37,144,245	$7,260,573	$29,949,610	($22,689,037)
TOTAL	$539,878,947	$328,673,118	$211,205,829	$598,992,200	($387,786,371)
PRESENT VALUE (1996 $) AT 6.5%		$138,450,681			

NOTES: * Assumes a 6-percent rate of annual growth.
Assumes that four lanes of the Carolina Bays Parkway will be constructed between S.C. 9 and Perry Road, as well as the Central Parkway Connector, and S.C. 544 will be widened to five lanes between the Socastee bridge and Conway, using the $330 million bond issue and monies available under the "Future Project Debt Service Available."

SOURCE: Coastal Carolina University, E. Craig Wall Sr. School of Business Administration and Computer Science, June 6, 1996.
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As work proceeds with the implementation of the short term recommendations, additional options for funding may evolve, such as:

- The reevaluation of Horry County's share of state dollars (it has long been a contention that Horry County's share of SCDOT dollars should be based on permanent population ***and*** tourists and not just permanent population);
- Implementation of a local gas fee for roads; and,
- Implementation of tolls.

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Section 5.0
IMPLEMENTATION RECOMMENDATIONS

"Team" Building toward Workable Solutions

The realization of the goals and work program discussed in Sections 2 and 3 will require a committed *"group"* of talented individuals who can stay focused on the goal of developing a workable transportation plan that benefits everyone, while keeping in perspective both public sentiment and political realities. To this end, the RIDE Committee offers the following recommendations:

1. A workable and achievable transportation plan that encompasses the projected needs (both short and long term) of Horry County for the next 20 to 30 years must be developed and adopted. This plan must be presented to and reviewed by Horry County and Municipal Councils, in order to achieve a mutual consensus of the program to be implemented. The most important factor is that the plan ***MUST*** be maintained to completion ***AS ADOPTED*** with only very minor modifications, if any at all.
2. An intergovernmental agreement between the State, SCDOT, Horry County, and municipal governments must be prepared. This agreement should outline the responsibilities of the State and SCDOT (issuance of the bonds, oversight responsibility for construction, and matching of funds to achieve each annual bond payment) and Horry County and municipal governments (annual, quarterly, or monthly payments to the State to retire the bonds issued for a period of 15 or 20 years).
3. A *"group"* to implement the Plan must be appointed. The RIDE Committee recommends that the *"group"* consist of seven members, two representatives chosen by Horry County, two chosen by the municipalities, two chosen by the SCDOT, and a chairman chosen by the Governor. The *"group,"* once formed, would have to be supported by a staff with a director responsible for overseeing the daily implementation and requirements of the plan and to coordinate with the State and SCDOT, and Federal Highway Administration, if necessary.
4. A SCDOT Fast Response Team must be created. This Fast Response Team would have the capability to expedite various planning, engineering, and environmental challenges to ensure that all projects stay on the fastest track possible. The team should consist of individuals who have the skills, expertise, and power of approval to *"cut through red tape and make things happen."* This team, in concert with the *"group,"* would be responsible for maintaining the schedule and the ultimate success of the adopted transportation plan.

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Section 6.0
CONCLUSION

This report provides a workable solution to the transportation issues facing Horry County that will enhance the quality of life of its residents, as well as ensure its continued prosperity in the future. It recommends a program that will produce a series of meaningful short term improvements that will assist in making the GSATS Long Range Transportation Plan a reality. It has a plan that will provide a revenue stream to fund short term improvements while working to find a funding solution for long term requirements. It develops also a mechanism that can be used throughout the State of South Carolina to accelerate the construction of other critical infrastructure needs.

The RIDE Committee has determined that the only way for Horry County to achieve an improved transportation network that benefits everyone is for citizens of Horry County and tourists visiting the Grand Strand to participate in the future success of tourism, one of the State's very important economic engines.

"Destiny is a matter of choice."
-- William Jennings Bryan

Therefore, in order to serve the citizens of Horry County correctly and completely, the RIDE Committee requests that the State, in partnership with Horry County, be willing to act on the recommendations outlined herein.

Respectfully Submitted

THE RIDE COMMITTEE

Gary M. Loftus (Chairman)

Frankie Blanton (Vice Chairman)

Edward Bouknight

Harry Charles

James Frazier

John Kost

Edward Rodelsperger

Suzette Rogers

Frank Thompson, II

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Appendix A

Public Meeting Summaries

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PUBLIC MEETING NUMBER 1

Location: Myrtle Beach Law Enforcement Center at 1101 Oak Street, Myrtle Beach.

Time: The public meeting was held on Monday, June 17, 1996, from 7:00 p.m. to 8:30 p.m.

Displays: Two displays were available for review, a map of Horry County and a map illustrating transportation projects that are proposed or currently underway in Horry County between the Waccamaw River and the coast.

Personnel: Actively participating in the public meeting were five members of the RIDE Committee (Mr. Gary M. Loftus [Chairman], Mr. Edward Bouknight, Mr. Harry Charles, Ms. Suzette Rogers, and Mr. Frank Thompson). Absent was Mr. Frankie Blanton (Vice Chairman), Mr. James Frazier, Mr. John Kost, and Mr. Edward Rodelsperger.

Process: The attendees were greeted as they entered and asked to sign in. The attendees were also asked if they wanted to address the Committee, as the purpose of the public meeting was to receive public comment prior to formulating the Report to the Governor.

Attendance: Approximately 41 people attended the meeting. Of this number 14 addressed the Committee.

Comments: Comments received included:

- ❑ Add left-turn lanes to existing four-lane roads.
- ❑ Add a third lane for turning to existing two-lane roads.
- ❑ Construct I-20 from Florence to Myrtle Beach.
- ❑ Impose development impact fees.
- ❑ Purchase the right-of-way for Carolina Bays Parkway.
- ❑ Increase the gas tax $0.05.
- ❑ Construct a bypass to the south of Conway and connect it to S.C. 544.
- ❑ Use the tax dollars currently sent to Columbia to pay for the local road improvements.
- ❑ Toll I-95.
- ❑ Improve S.C. 544, U.S. 521, and U.S. 501.
- ❑ Widen S.C. 9 to four lanes all the way to I-95.

- ❑ Build a bridge over the Waccamaw River to connect S.C. 544 with U.S. 701.
- ❑ Impose a two-percent hospitality tax east of Conway.
- ❑ Widen S.C. 319 (located north of U.S. 501) from Aynor to Conway, build a bridge over the Waccamaw River and connect it to the bridge over the Atlantic Intracoastal Waterway at Briarcliffe Acres.
- ❑ Tell Governor Beasley that Horry County should not be responsible for finding the money to build the roads.

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PUBLIC MEETING NUMBER 2

Location: North Myrtle Beach City Hall, Council Chambers at 1015 Second Avenue South, North Myrtle Beach.

Time: The public meeting was held on Monday, June 24, 1996, from 7:00 p.m. to 8:30 p.m.

Displays: Two displays were available for review, a map of Horry County and a map illustrating transportation projects that are proposed or currently underway in Horry County between the Waccamaw River and the coast.

Personnel: Actively participating in the public meeting were the nine members of the RIDE Committee (Mr. Gary M. Loftus [Chairman], Mr. Frankie Blanton [Vice Chairman], Mr. Edward Bouknight, Mr. Harry Charles, Mr. James Frazier, Mr. John Kost, Mr. Edward Rodelsperger, Ms. Suzette Rogers, and Mr. Frank Thompson).

Process: The attendees were greeted as they entered and asked to sign in. The attendees were also asked if they wanted to address the Committee, as the purpose of the public meeting was to receive public comment prior to formulating the Report to the Governor.

Attendance: Approximately 28 people attended the meeting. Of this number eight addressed the Committee.

Comments: Comments received included:

- ❑ Construct a small bypass of Conway instead of the Conway Bypass.
- ❑ Use Waccamaw Regional Planning and Development Council's expertise, because they are the transportation representatives for Horry County.
- ❑ Impose development impact fees.
- ❑ Improve signage for S.C. 9 in order to attract increased usage.
- ❑ Use accommodations taxes to improve roads instead of for advertising.
- ❑ Impose a business license fee.
- ❑ Construct clover-leaves at interchanges.

- ❑ Increase the sales tax $0.01.
- ❑ Widen U.S. 701 from S.C. 9 to the state line to take advantage of North Carolina's plans.
- ❑ Tell the Governor Horry County deserves their fair share.

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PUBLIC MEETING NUMBER 3

Location: Burroughs School Auditorium at 801 Main Street, Conway.

Time: The public meeting was held on Monday, July 1, 1996, from 7:00 p.m. to 8:45 p.m.

Displays: One display was available for review, a map of Horry County.

Personnel: Actively participating in the public meeting were seven members of the RIDE Committee (Mr. Gary M. Loftus [Chairman], Mr. Frankie Blanton [Vice Chairman], Mr. Edward Bouknight, Mr. Harry Charles, Mr. John Kost, Mr. Edward Rodelsperger, and Mr. Frank Thompson). Absent was Ms. Suzette Rogers and Mr. James Frazier.

Process: The attendees were greeted as they entered and asked to sign in. The attendees were also asked if they wanted to address the Committee, as the purpose of the public meeting was to receive public comment prior to formulating the Report to the Governor.

Attendance: Approximately 43 people attended the meeting. Of this number 15 addressed the Committee.

Comments: Comments received included

- ❑ Impose development impact fees.
- ❑ Increase the sales tax on vehicle sales.
- ❑ Learn from the mistakes made in Miami and Fort Lauderdale.
- ❑ Increase the gas tax $0.01.
- ❑ Impose a one-percent hospitality fee.
- ❑ Create a lottery and use the revenues to pay for infrastructure.
- ❑ Widen S.C. 9 to I-95.
- ❑ Widen U.S. 501.
- ❑ Impose tolls.
- ❑ Financing should come from everyone, federal, state, and local participation.
- ❑ Revenues for financing should be mixed, sales tax, hospitality fees, gas tax, tolls.

- ❑ Impose a development moratorium.
- ❑ Improve traffic flow through Conway.
- ❑ Computerize the traffic signals.
- ❑ Improve S.C. 544.

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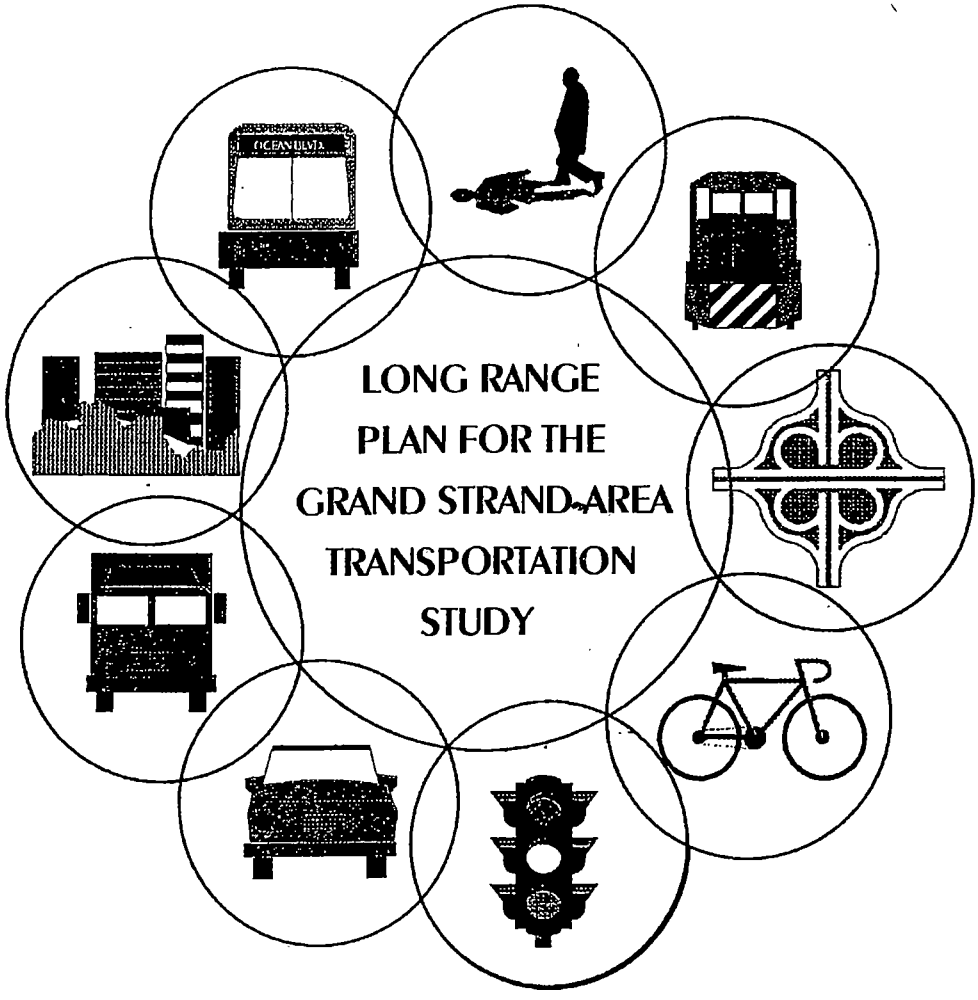
Appendix B

Long Range Plan for the Grand Strand Area Transportation Study Executive Summary

EXECUTIVE SUMMARY



Conducted for:
WACCAMAW REGIONAL PLANNING AND DEVELOPMENT COUNCIL

Prepared by:
WILBUR SMITH ASSOCIATES

March 1996

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Funding for this study was provided by the Federal Highway Administration, the South Carolina Department of Transportation, and the Waccamaw Regional Planning and Development Council.

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The last decade has seen the Grand Strand Area emerge as the second most popular resort destination on the East Coast. More and more people have found their way to the region. The upside is economic growth; the downside is traffic congestion.

The region is capitalizing on its popularity and is looking to continued growth and success in the decades to come. For this vision to be realized, there must be a realistic long range transportation plan that:

(1) **provides accessibility to the Grand Strand Area.** If the required roadway and transit capacities leading to the area are not in place, then there is no way for the vision to become reality; and

(2) **provides internal mobility through the area.** As more and more people flock to the beach, it will become impossible and impractical to accommodate all the short-distance travel demands by automobile. It is essential that an expanded highway, transit, pedestrian, and bicycle system be provided to encourage non-automobile travel within the area.

THE PRESENT AND FUTURE

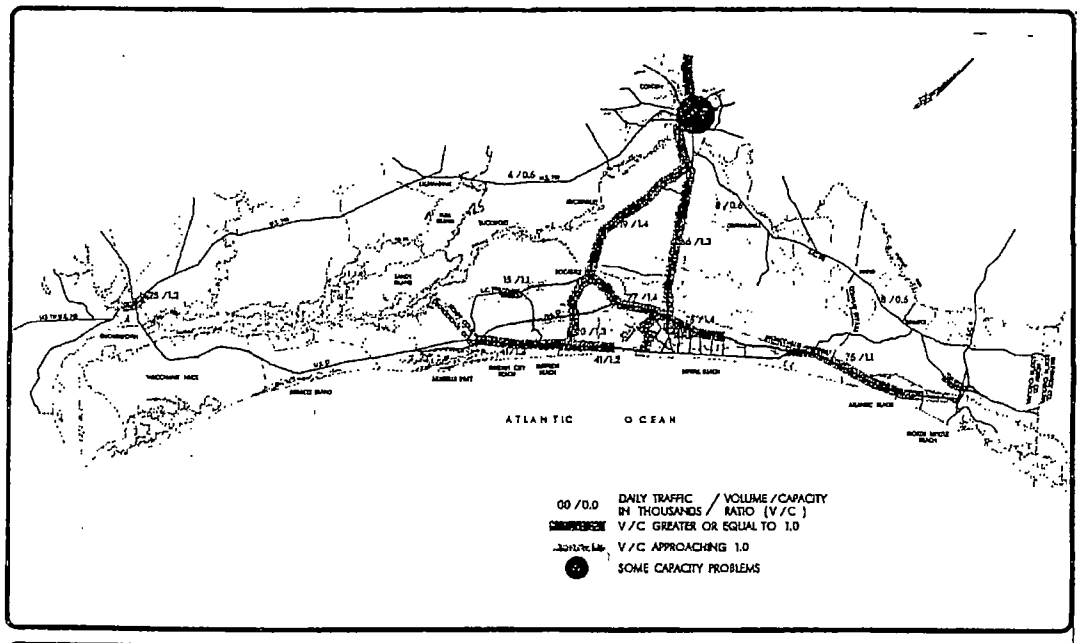
There is no way the region can accommodate anticipated future travel demands with the current transportation system. Presently, a typical summer day is characterized by long queues on major highways such as US 501, SC 544, and US 17 Business and Bypass. Along the oceanfront, pedestrians and vehicles compete for space on Ocean Boulevard and Kings Highway. These situations confirm the results of technical analyses that indicate the region's present highway system is operating just over capacity and cannot handle any significant increases in traffic without intolerable delays.

ROADWAY	1995 DAILY TRAFFIC	2015 DAILY TRAFFIC	PERCENT INCREASE
SC 544	19,000	30,000	58%
US 501	66,000	101,000	53%
US 17 Bypass	77,000	132,000	71%
US 17 BUSINESS	41,000	69,000	68%

A number of highway improvements have been proposed; some have reached the stage of being considered as committed projects, such as widening of US 17 Business in Murrells Inlet and US 17 in North Myrtle Beach as well as the Conway Bypass. Some projects have been studied in detail, such as Carolina Bays Parkway, as well as the widening of US 501 and SC 544.

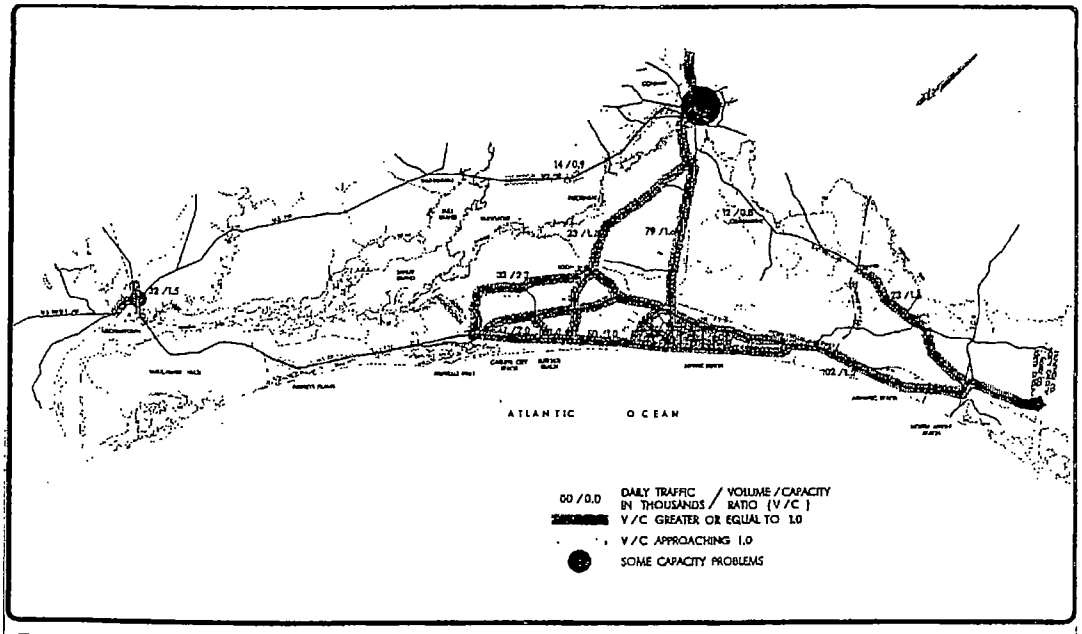
If the Year 2015 traffic projections become a reality, all these projects, and numerous other improvements, will be needed to keep traffic conditions from getting worse than they already are.

Some would argue that the construction of highway improvements encourages highway-dependent land development, which in turn encourages more traffic, perpetuating today's traffic problems.



EXISTING 1995 TRAFFIC CONDITIONS
GSATS Long Range Plan

FIGURE ES-1



ANTICIPATED 2015 EXISTING & COMMITTED TRAFFIC CONDITIONS
GSATS Long Range Plan

FIGURE ES-2

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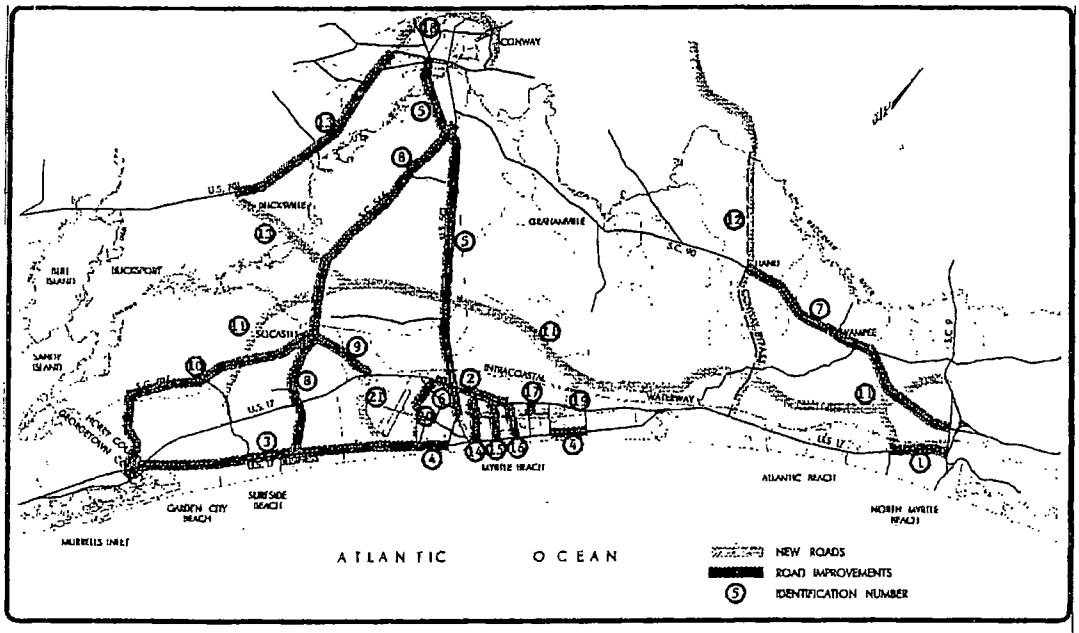
BALANCE IS THE ONLY REAL SOLUTION

Evidence of the futility of excessive dependence on highways is the amount of land required to accommodate the automobile. Not only road space is needed, but parking spaces as well. If status quo automobile dependent conditions continue into the future, and if the anticipated traffic growth materializes, it is estimated that approximately 2,500 acres of land would be needed to construct an estimated 240,000 parking spaces (assuming only surface lots are built). This land could obviously be put to better economic use.

Highway improvements totaling $1.7 billion (with contingency) are necessary to accommodate projected traffic growth and return traffic conditions to better than they are today. But these improvements would not address all of the region's transportation problems. It would be easier to get to the area, but not so easy to move around. Movements, especially on Ocean Boulevard and Kings Highway, would be hampered as pedestrians walk along or cross streets, and vehicles try to maneuver through the area. Sidewalks can be provided, but with wider roads and more parking needed, the resulting environment would not likely be pedestrian friendly.



MAJOR HIGHWAY PROJECTS CONSIDERED
GSATS Long Range Plan

FIGURE ES-3

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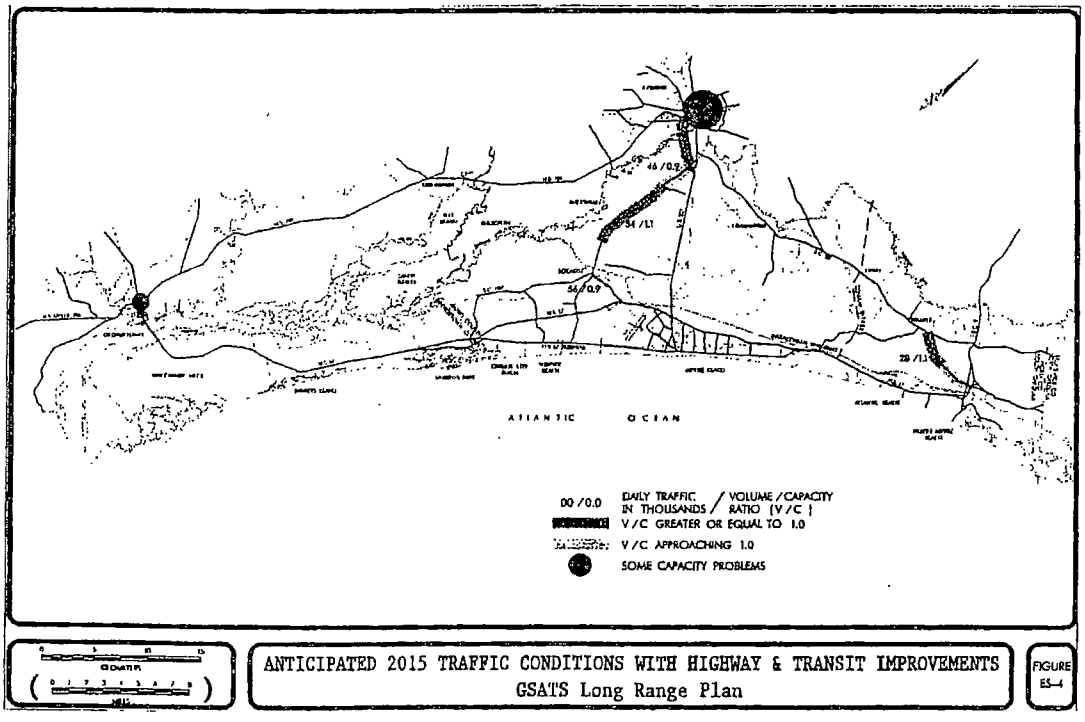
Another drawback to the "All Highway" approach is the lack of capacity to address post-Year 2015 growth. The proposed highway improvements will result in little reserve capacity to accommodate any additional growth beyond that anticipated by Year 2015. After most major roadways become six to eight lanes wide, there will be few opportunities to provide more road capacity. Therefore, the "All Highway" approach has limited potential to serve the region's post-Year 2015 growth.

PREFERRED PLAN

A multimodal approach that provides a balanced transportation system is the only sound basis for addressing the region's needs. The Preferred Plan is based on a series of highway improvements needed today or in the near future to alleviate congestion. These improvements must be augmented by an increased emphasis on alternate modes of transportation, such as transit, bicycles, and pedestrian improvements.

It is not possible to stop building roads and force people to use alternate modes -- in part because those alternate modes do not exist today, and in part because presently there is no overwhelming willingness to use those modes. Careful planning over time will allow the appropriate transit, bicycle, and pedestrian systems to evolve in concert with changes in land use which will be critical to the success of these alternate modes. To encourage more people to ride transit, transit services must be improved, and the convenience/cost of internal travel by automobile changed.



ANTICIPATED 2015 TRAFFIC CONDITIONS WITH HIGHWAY & TRANSIT IMPROVEMENTS
GSATS Long Range Plan

FIGURE ES-4

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Land Use Controls

Today, the Grand Strand Area is primarily served by low density development. Within the Myrtle Beach area, development is poised to jump over the Intracoastal Waterway and repeat the low density pattern. Such trends will compound demands for highway capacity and make viable transit service difficult to provide.

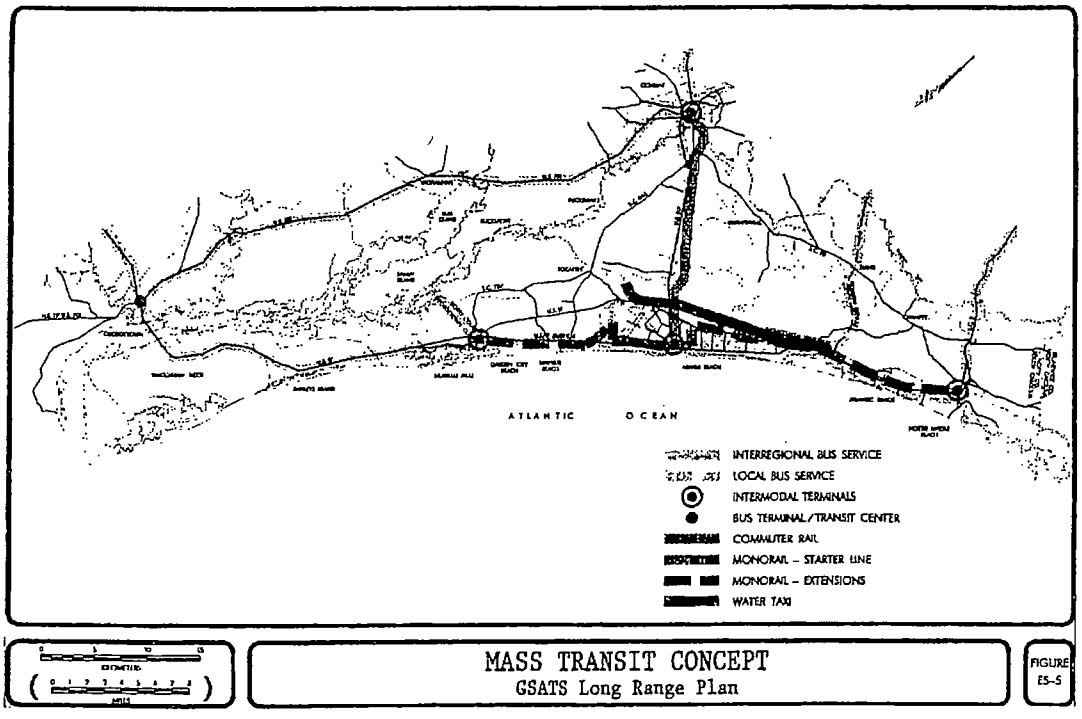
A combination of highway and transit improvements along the Grand Strand can encourage redevelopment of low density areas into major development clusters that encourage transit usage, and facilitate the use of bicycle and pedestrian travel.

Only by coordinating land use and transit improvements as part of a comprehensive long

[illegible] plan will the Grand Strand be able to [illegible]ment the transportation plan required to accommodate future economic growth. Without managed land use and a balanced transportation system, desired growth may never materialize.

Transit Plan

The Transit Element of the Preferred Plan is a comprehensive program of regional and local bus service, rail projects, plus introduction of water taxi and monorail service. The heart of the plan is a monorail system that would initially link the Air Force Base Redevelopment Area to the Visitors Center, and on to Broadway at the Beach. Later, the system would be extended to North Myrtle Beach and Murrells Inlet.



MASS TRANSIT CONCEPT
GSATS Long Range Plan

FIGURE E5-5

Supporting the Transit Element would be bicycle and pedestrian improvements that offer nonmotorized transportation alternatives. Pedestrian and bicycle improvements around transit stations and intermodal terminals will be important to the success of the transit system.

Highway Element

The adjacent table indicates the highway improvements that are required, in addition to the Transit Element and pedestrian/bicycle improvements, to maintain traffic conditions at acceptable standards. These improvements range from localized intersection or interchange improvements, to short segments of roadway widenings or new connecting highways, to major regional highway improvements such as the proposed Carolina Bays Parkway.

The improvements are prioritized by group and within each group. Priority Group 1 includes all projects contained in the existing Transportation Improvement Plan, plus projects oriented towards improving capacity on routes leading to the Grand Strand Area. Priority Group 2, as a rule, focuses on projects that typically carry lower traffic volumes or are more sub-regional in nature. Additionally, the first phase of the monorail and transit improvement projects are included in Priority Group 2. The final group, Priority Group 3, involves generally localized projects and the expansion of the monorail transit system.

Estimated Costs

The plan is estimated to cost approximately $2.4 billion, including an overall contingency factor of 15 percent. Estimates (including the contingency factor) for each major element include:

Highway	$1.74 billion
Transit	$0.67 billion
Other	$0.01 billion
Total	**$2.42 billion**

Funding Options

A long list of potential local funding options was explored with those having the best potential to generate the funds necessary to finance the plan being: a motor vehicle fuel tax, a county sales tax,, a local accommodations tax, impact fees, and an increase in the admissions tax. Although a combination of these taxes could produce most of the required funds, it is likely that State and Federal funding beyond what is already committed could be found to finance some improvements, and that user fees could sustain the Transit Element.

NEXT STEPS

The GSATS Region has come to a fork in the road. If a status quo approach is most desired by the region, then the All Highway approach costing $1.7 billion will do -- for now. If the region is willing to take slightly more risk and increase the cost of the plan by some $675 million, then the Preferred Plan will not only meet all anticipated travel demands to the Year 2015, but also have reserve capacity to serve the anticipated development beyond that planning horizon. The Preferred Plan appears to be more in tune with the area's goals and objectives.

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Table ES-1
PRIORITIZED PREFERRED PLAN ELEMENTS

PRIORITY GROUP	NO.	IMPROVEMENT	TYPE	ACTION	LOCATION	COST ($000)
1	1	CAROLINA BAYS PARKWAY	HIGHWAY	NEW FACILITY	SC 9 TO US17 (BYPASS) INC US701 CONNECTOR	$717,000
1	1	CONWAY BYPASS	HIGHWAY	NEW FACILITY	US501 TO US17, NORTH MB	$413,000
1	2	US501	HIGHWAY	WIDEN TO 4 LANE FRWY/4 LANE FRONTAGE RD	CONWAY TO FORESTBROOK RD	$31,431
1	2	US501	HIGHWAY	WIDEN TO 6 LANE FRWY/6 LANE FRONTAGE RD	FORESTBROOK RD TO US17 (BYPASS)	$32,769
1	2	US501	HIGHWAY	WIDEN TO 6 LANES	US17 (BYPASS) TO 3RD AVE S	$11,202
1	3	SC544	HIGHWAY	WIDEN TO 6 LANES	US17B TO US17 (BYPASS)	$6,075
1	3	SC544	HIGHWAY	WIDEN TO 6 LANES	US17 (BYPASS) TO SOCASTEE	$14,580
1	3	SC544	HIGHWAY	WIDEN TO 8 LANES	SOCASTEE TO CONWAY	$14,648
1	3	SC544	HIGHWAY	CONSTRUCT INTERCHANGE	SC707/SOCASTEE BLVD, SOCASTEE	$2,500
1	4	US501	HIGHWAY	INTERSECTION IMPROVEMENTS	16TH AVE, CONWAY	$500
1	5	3RD AVENUE S	HIGHWAY	ADD TWO WAY LEFT TURN LANE	US501 TO US17B, MB	$4,051
1	6	BELTLINE ROAD	HIGHWAY	NEW TWO LANE ROAD	SC905 TO US701, CONWAY	$7,050
1	7	10TH AVENUE N	HIGHWAY	WIDEN TO 7/6 LANES	US17 (BYPASS) TO CENTRAL PARKWAY, MB	$3,375
1	8	INLET SQUARE DRIVE	HIGHWAY	REALIGN-SMALL TIP PROJECT	ALIGN WITH MT GILEAD RD, GARDEN CITY	$400
1	9	SC90	HIGHWAY	REALIGN-SMALL TIP PROJECT	REALIGN AT ENT. TO CEDAR CREEK SUBDIV., NORTH M	$500
1	10	N OCEAN BOULEVARD	HIGHWAY	WIDEN	SEA MOUNTAIN HWY TO 53RD AVE N	$1,200
1	11	SC707	HIGHWAY	WIDEN TO 8 LANES	SC544 TO US17 (BYPASS), BACK GATE	$3,600
1	12	US17	HIGHWAY	WIDEN	S OF 8TH AVE N TO SC9, NORTH MB	$1,900
1	13	US17 BUSINESS	HIGHWAY	WIDEN	US17B TO S-62, MURRELLS INLET	$1,480
1	14	ATLANTIC AVENUE (S-51)	HIGHWAY	ADD TWO WAY LEFT TURN LANE	WACCAMAW DRIVE TO US17B, GARDEN CITY	$942
1		NORTH OCEAN BLVD	BIKEWAY	NEW FACILITY	MYRTLE BEACH	$190
1		OCEAN BOULEVARD	BIKEWAY	ADD BIKE AND PED PATH/BIKE LANE	SURFSIDE BEACH	$51
1		US17	BIKEWAY	NEW FACILITY	MYRTLE BEACH	$380
1		CRABTREE CANAL BIKEWAY	BIKEWAY	NEW FACILITY	CONWAY	$10
1		SANTEE COOPER BIKEWAY	BIKEWAY	NEW FACILITY	48TH AVE N TO 76TH AVE N	$342
1		SOUTH WACCAMAW DRIVE	SIDEWALK	CONSTRUCT SIDEWALKS	GARDEN CITY	$113
1		WACHESAW RD	SIDEWALK	CONSTRUCT SIDEWALKS	MURRELLS INLET	$18
1		16TH AVE N	SIDEWALK	ADD SIDEWALKS	MYRTLE BEACH	$21
1		62ND ST N	SIDEWALK	ADD SIDEWALKS	MYRTLE BEACH	$189
1		VARIOUS	SIDEWALK	ADD SIDEWALKS	MYRTLE BEACH	$2,500
1		VARIOUS	MISC	SIGNAL SYSTEMS	MYRTLE BEACH, N. MYRTLE BEACH, CONWAY	$1,160
1		VARIOUS	TRANSIT	PHASE 1 CAPITAL COSTS (w/ contingency)	REGIONAL	$61,625
					SUBTOTAL	$1,334,822
					CONTINGENCY @ 15% (exc transit)	$190,980
March 28, 1996					TOTAL PRIORITY GROUP 1	$1,525,802

Table ES-1 (cont)
PRIORITIZED PREFERRED PLAN ELEMENTS

PRIORITY GROUP	NO.	IMPROVEMENT	TYPE	ACTION	LOCATION	COST ($000)
2	1	US17 (BYPASS)	HIGHWAY	WIDEN TO 6/7 LANES	BACK GATE TO JETPORT ROAD TO US501 TO 29TH AVE N	$28,080
2	2	US17BUSINESS	HIGHWAY	WIDEN TO 6 LANES	N OF MURRELLS INLET TO JETPORT ROAD	$8,500
2	3	21ST AVE N	HIGHWAY	WIDEN TO 5/4 LANES	US17 TO US17B, MB	$4,750
2	4	US17BUSINESS	HIGHWAY	WIDEN TO 6 LANES	JETPORT TO 34TH AVE AND 48TH AVE N TO 62ND AVE N	$15,500
2	5	JETPORT ROAD	HIGHWAY	EXTEND	JETPORT TO US17B, MB	$2,000
2	5	JETPORT ROAD	HIGHWAY	WIDEN TO 4 LANES DIVIDED	US17 (BYPASS) TO JETPORT, MB	$1,214
2	6	SC707	HIGHWAY	WIDEN TO 8 LANES	CAROLINA BAYS PARKWAY TO SC544	$7,200
2	6	SC707	HIGHWAY	WIDEN TO 8 LANES	US17 (BYPASS), MURRELLS INLET TO CBP	$11,520
2	7	SC90	HIGHWAY	WIDEN TO 4 LANES	CAROLINA BAYS PARKWAY TO SC9	$960
2	7	SC90	HIGHWAY	WIDEN TO 4 LANES	CONWAY BYPASS TO CAROLINA BAYS PKWY NEAR SC9	$6,660
2	8	CENTRAL PARKWAY - NORTH	HIGHWAY	NEW DIVIDED ARTERIAL	52ND AVE N TO 38TH AVE N	$10,138
2	8	CENTRAL PARKWAY - SOUTH	HIGHWAY	NEW DIVIDED ARTERIAL	21ST AVE N TO US501	$9,462
2	9	US378	HIGHWAY	CORRIDOR IMPROVEMENTS	CONWAY	$500
2	10	US701	HIGHWAY	CORRIDOR IMPROVEMENTS	CONWAY	$500
2	11	US17	HIGHWAY	ADD RAISED MEDIAN	NORTH MYRTLE BEACH	$250
2	12	OLD SOCASTEE ROAD	HIGHWAY	WIDEN	US501 TO US17 (BYPASS)	$1,056
2	12	OLD SOCASTEE ROAD EXTENSION	HIGHWAY	EXTEND	S-635 TO BACK GATE RD	$285
2	13	US501/378 CONNECTOR	HIGHWAY	NEW FACILITY	CONWAY	$1,560
2	14	GLENN'S BAY RD	HIGHWAY	WIDEN/IMPROVE TO 3 LANES	US 17 (BYPASS) TO US17B	$3,400
2	15	S OCEAN BLVD	HIGHWAY	WIDEN TO 4 LANES	ATLANTIC BEACH TO 48TH AVENUE S, NORTH MB	$1,500
2	16	S OCEAN BLVD	HIGHWAY	WIDEN TO 4 LANES	17TH AVENUE S TO ATLANTIC BEACH, NORTH MB	$750
2		KINGS HIGHWAY	BIKEWAY	ADD BIKEWAYS	MYRTLE BEACH	$100
2		MONORAIL-PHASE 1	TRANSIT	FROM AIRBASE TO DOWNTOWN	MYRTLE BEACH	$151,100
					SUBTOTAL	$266,985
					CONTINGENCY @15% (exc transit)	$17,383
March 28, 1996					TOTAL PRIORITY GROUP 2	$284,368

Table ES-1 (cont)
PRIORITIZED PREFERRED PLAN ELEMENTS

PRIORITY GROUP	NO.	IMPROVEMENT	TYPE	ACTION	LOCATION	COST ($000)
3	1	29TH AVE N	HIGHWAY	WIDEN TO 5/4 LANES	US17 (BYPASS) TO US17B, MB	$2,850
3	2	38TH AVE N	HIGHWAY	WIDEN TO 4 LANES	US17 (BYPASS) TO CENTRAL PARKWAY, MB	$2,850
3	3	5TH AVE S	HIGHWAY	EXTEND 3 LANE ROAD THRU RACEPATH RD	S-600 TO BROADWAY, MB	$2,064
3	3	5TH AVE S	HIGHWAY	ADD TWO WAY LEFT TURN LANE	BROADWAY HWY TO US17B, MB	$1,601
3	4	GEORGETOWN BYPASS	HIGHWAY	NEW FACILITY	US701 TO US17, WEST OF TOWN	$6,724
3	5	GEORGETOWN NE-SW BOULEVARD	HIGHWAY	MAKE FRASIER AND HAZARD ONE-WAY PAIRS	GEORGETOWN	$1,500
3	6	GEORGETOWN NW-SE BOULEVARD	HIGHWAY	MAKE HIGHMARKET AND CHURCH ONE-WAY PAIRS	GEORGETOWN	$1,500
3	7	ELIZABETH STREET	HIGHWAY	EXTEND	16TH AVE TO WALMART CONN, CONWAY	$1,958
3	8	FORESTBROOK ROAD	HIGHWAY	WIDEN TO 4 LANES	US501 SOUTH	$6,585
3	9	MILL POND ROAD	HIGHWAY	EXTEND	US378 TO BEYOND US501, CONWAY	$1,500
3	10	SOUTH JETPORT PARKWAY	HIGHWAY	NEW FACILITY	MYRTLE BEACH	$11,880
3	11	LITTLE RIVER NECK ROAD	HIGHWAY	WIDEN	NORTH MB	$9,000
3	12	LITTLE RIVER NECK ROAD CONNECTOR	HIGHWAY	NEW FACILITY	BETWEEN LITTLE RIVER NECK AND US17	$9,200
3	13	CYPRESS AVE	HIGHWAY	ADD TWO WAY LEFT TURN LANE	WACCAMAW DRIVE TO US17B, GARDEN CITY	$942
3	14	S-111	HIGHWAY	WIDEN TO 4 LANES	S-50 TO SC57	$1,920
3	15	S-50	HIGHWAY	WIDEN TO 4 LANES	LITTLE RIVER TO S-111	$3,360
3	16	US501	HIGHWAY	CORRIDOR IMPROVEMENTS	CONWAY	$500
3	17	US501	HIGHWAY	INTERSECTION IMPROVEMENTS	9TH AVE, CONWAY	$500
3	18	US501	HIGHWAY	INTERSECTION IMPROVEMENTS	US378, CONWAY	$500
3	19	US501	HIGHWAY	CONSTRUCT INTERCHANGE	FORESTBROOK ROAD	$2,500
3	20	US501	HIGHWAY	CONSTRUCT INTERCHANGE	FUTURE INTERSECTION	$2,500
3	21	US501	HIGHWAY	CONSTRUCT INTERCHANGE	SINGLETON RIDGE ROAD	$2,500
3	22	US501	HIGHWAY	CONSTRUCT INTERCHANGE	SC544, CONWAY	$4,000
3	23	US501	HIGHWAY	CONSTRUCT INTERCHANGE	US17 (BYPASS)	$10,000
3	24	US501	HIGHWAY	CONSTRUCT INTERCHANGE	CENTRAL PARKWAY/S-600	$3,500
3	25	US501	HIGHWAY	CONSTRUCT INTERCHANGE	GEORGE BISHOP BOULEVARD	$3,500
3	26	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	SC707/SOUTH JETPORT PARKWAY, MB	$2,500
3	27	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	JETPORT ROAD, MB	$2,500
3	28	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	10TH AVE N, MB	$2,500
3	29	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	21ST AVE N, MB	$2,500
3	30	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	38TH AVE N, MB	$2,500
3	31	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	29TH AVE N, MB	$2,500
3	32	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	67TH AVE N, MB	$2,500
3	33	US17BUSINESS	HIGHWAY	CONSTRUCT INTERCHANGE	OCEAN BLVD/MAIN GATE, MB	$2,500
3	34	US17BUSINESS	HIGHWAY	CONSTRUCT INTERCHANGE	SC544, SOUTH STRAND	$2,500
3	35	US17BUSINESS	HIGHWAY	CONSTRUCT INTERCHANGE	21ST AVE N, MB	$4,000
3	36	US17BUSINESS	HIGHWAY	CONSTRUCT INTERCHANGE	SURFSIDE DRIVE, SOUTH STRAND	$2,500
3	37	OCEAN BOULEVARD	HIGHWAY	MAKE CONTINUOUS	32ND TO 33RD AVES S, ATLANTIC BEACH	$100
3	38	OCEAN BOULEVARD	HIGHWAY	MAKE CONTINUOUS	20TH TO 29TH AVES S, ATLANTIC BEACH	$200
3	39	MAIN STREET/US17	HIGHWAY	HIGHWAY INTERSECTION IMPROVEMENTS	NORTH MB	$30
3	40	48TH AVE S/US17	HIGHWAY	HIGHWAY INTERSECTION IMPROVEMENTS	NORTH MB	$30
3	41	HILL STREET/LITTLE RIVER NECK	HIGHWAY	HIGHWAY INTERSECTION IMPROVEMENTS	NORTH MB	$120
3	42	WALMART CONNECTOR	HIGHWAY	NEW FACILITY	US501 TO OAK STREET EXT, CONWAY	$2,500
3	43	NORTH STREET	HIGHWAY	WIDEN TO 5 LANES/EXTEND	US701 TO US521, GEORGETOWN	$2,900
3		BIKE THE NECK	BIKEWAY	ADD BIKE FACILITIES	WACCAMAW NECK, GEORGETOWN COUNTY	$950
3		MONORAIL-PHASE 2	TRANSIT	EXTEND TO MURRELLS INLET AND NORTH MB	REGIONAL	$185,500
3		VARIOUS	TRANSIT	PHASES 2 AND 3 COSTS (EXC MONORAIL)	REGIONAL	$270,185
					SUBTOTAL	$586,949
					CONTINGENCY @ 15% (exc transit)	$19,690
					TOTAL PRIORITY GROUP 3	$606,639

March 28, 1996

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Exhibit B

STATE OF SOUTH CAROLINA)
) ORDINANCE NO. 105-96
COUNTY OF HORRY)

AN ORDINANCE IMPOSING A TWO AND ONE-HALF PERCENT HOSPITALITY FEE IMMEDIATELY.

WHEREAS, A plan which offered long-range solutions to this area's road problems failed to pass; and

WHEREAS, The need for road improvement continues and will in all likelihood increase in the future; and

WHEREAS, Considerable time and effort was expended by the Governor's RIDE Committee to establish a new plan and a new timetable; and

WHEREAS, All past efforts to institute a local options sales tax have failed, thus making difficult the possibility of using the largest single revenue generator available; and

WHEREAS, Current law allows local government to levy reasonable and necessary fees to provide needed infrastructure.

NOW THEREFORE, BE IT ORDAINED IN COUNCIL DULY ASSEMBLED,

SECTION 1. (A) **Establishment of Hospitality Fee.** There is established a uniform service charge, hereinafter referred to as the "hospitality fee," equal to one and one-half percent (1.5%) within the geographic confines of Horry County, with an additional hospitality fee equal to one percent (1.0%) within the unincorporated areas of Horry County only. These fees shall be imposed on:

(1) the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code applies;

(2) those paid admissions to places of amusement within the County to which the admissions tax imposed by the State of South Carolina pursuant to Section 12-21-2420, et seq. of the South Carolina Code, applies (golf fees not to begin until 7/1/97); and

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(3) the gross proceeds derived from the sale of food and beverages sold in establishments which primarily have as their business purpose the sale of prepared food for immediate consumption either on or off premises; or maintain licenses for the on-premise consumption of alcohol, beer or wine.

(B) **Payment of the Hospitality Fee.** Payment of the hospitality fee shall be the liability of the consumer of the services described in Section 19-51 subsection (A). The hospitality fee shall be paid at that time of the delivery of services to which the hospitality fee applies, shall b3e collected by the provider of the services,and shall be held in trust by the provider until remitted as provided for herein.

(C) **Collection of the Hospitality Fee.** The hospitality fee imposed by this section is due and payable in monthly installments on or before the twentieth day of each month and every person liable for the fee shall on or before the twentieth day of each month make a true and correct return to the County in such form as it may prescribe and remit the fee therewith. A return is considered to be timely filed if the return is mailed and has a postmark dated on or before the date the return is required to be filed. In case of a failure to make a true and correct return or a failure to file the return, the County shall make a return upon such information as it may be able to obtain, assess the fee due thereon, and add a penalty of ten percent, whereupon the County shall mail notice to the person liable for the fee and, in the case of failure to pay the fee within ten days after the mailing of any such notice, the County shall add an additional penalty of ten percent.

(D) **Inspections and Audits.** For the purpose of enforcing the provisions of this section the County Administrator or other authorized agent of the County, is empowered to enter upon the premises of any person subject to this section and to make inspections, examinations and audits of books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hours written notice. In the event that an audit reveals that false information has been filed by the remitter, the costs of the audit shall be added to the correct amount of fees determined to be due, in addition to the penalties provided in subsection (C). The County Administrator or other authorized agent of the County may make systematic inspection of all businesses within the County, to ensure compliance with this section. Records of inspection shall not be deemed public records.

(E) **Penalties.** (1) It is a violation of this section to:

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(a) fail to collect the hospitality fee;

(b) fail to remit to the County any hospitality fee collected;

(c) fail to file a hospitality fee; return.

(d) knowingly provide false information on a hospitality fee return;

or

(e) fail to provide books and records to the County Administrator or other authorized agent of the County for the purpose of inspection, examination, or audit after twenty-four (24) hours written notice.

(2) Each day this section is violated constitutes a separate offense.

(3) Upon conviction of this section, the violator is guilty of a misdemeanor and subject to a fine or forfeiture not exceeding five hundred dollars or imprisonment not exceeding thirty days, or both.

(F) **Start-up Funds and Administration of Hospitality Fee.** The County Administrator is responsible for the implementation, collection, and enforcement of the hospitality fee and, upon mutual agreement with the County Auditor and County Treasurer, the County Administrator may provide for the implementation, collection, and enforcement of the hospitality fee through the County Auditor and County Treasurer.

(G) **Disposition of Hospitality Fee.** All revenues collected fro the hospitality fee shall be deposited in two separate funds. The funds derived from the one and one-half percent fee shall be deposited into a Road Fund which will be used to implement a comprehensive road plan adopted by the County in concert with the municipalities of the County. The money in this Fund shall be held in escrow until the said comprehensive road plan is finalized and adopted. Interest generated by this fund shall accrue to the fund. The funds derived for the one percent fee shall be deposited in the general fund of the County to offset the cost of public safety and public works services and infrastructure directly impacted by tourism. In the case of either fund, the costs of collecting

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the monies may be reimbursed by the fund monies, up to a maximum of one percent (1%).

(H) **Sunset.** The imposition of the one and one-half (1.5%) percent hospitality fee for infrastructure will terminate (a) on 8/1/97 if an appropriate agreement or legislation is not in place fro the State of South Carolina to provide their share of the short term funding plan outlined by RIDE or (b) twenty years from the effective date of this ordinance. Should the one and one-half (1.5%) percent hospitality fee be terminated on 8/1/97, all funds collected will be placed in the general fund of the County and used for services directly impacted by the tourism industry (see G above).

SECTION 2. SEVERABILITY.

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

SECTION 3. CONFLICTING ORDINANCES REPEALED.

All ordinances or parts of ordinances in conflict with the provisions of this ordinances are hereby repealed.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be effective 1/1/97.

FIRST READING: August 6, 1996
SECOND READING: August 20, 1996
THIRD READING: October 15, 1996

ATTEST:
Rosella H. Carroll
Rosella H. Carroll, Clerk to Council

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HORRY COUNTY COUNCIL

A. Joseph McNutt, Jr., Chairman

Ray Skidmore, Jr., District 1

John Kost, District 2

Raymond J. Brown, District 3

Chandler Brigham, District 4

Chandler C. Prosser, District 5

Terry Chambers, District 6

James R. Frazier, District 7

Elizabeth D. Gilland, District 8

Ulysses Dewitt, District 9

Johnny Shelley, District 10

Janice Jordan. District 11

ATTEST:
Rosella H. Carroll, Clerk to Council

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Exhibit C

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STATE OF SOUTH CAROLINA
COUNTY OF HORRY
CITY OF MYRTLE BEACH

RESOLUTION SUPPORTING THE FINDINGS AND RECOMMENDATIONS OF THE RIDE COMMITTEE REPORT OF SEPTEMBER 1996.

WHEREAS, the serious transportation problem and traffic congestion are an ever increasing threat to the public safety and welfare, and the future economic development of Horry County and the State of South Carolina; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H.B. Limehouse, Chairman of the South Carolina Department of Transportation, form a special committee, which consisted of nine members and became known as the Road Improvement and Development Effort (RIDE Committee), to prepare a study on Horry County transportation problems and potential solutions; and

WHEREAS, the RIDE Committee considered both short term and long term solutions to the serious transportation problems and traffic congestion on Horry County roads; and

WHEREAS, the RIDE Committee presented the results of their study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996, and municipal bodies of Horry County on October 3, 1996; and

WHEREAS, the plan presented will provide substantial traffic relief and require participation in the funding package by the citizens of Horry County, as outlined by the proposed implementation of a 1.5 percent hospitality fee for a period of up to 20 years in partnership with the State of South Carolina, who will contribute substantial funding; and

WHEREAS, in order to solve the serious transportation and traffic congestion problems in Horry County, it is essential that the people and governments of Horry County work together harmoniously toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that Myrtle Beach City Council strongly and unanimously support the RIDE Committee Report to Governor David M.

Beasley; and further urges Horry County Council to enact expeditiously the necessary ordinances to implement the RIDE Committee report.

SIGNED AND SEALED this 8th day of October, 1996.

ATTEST:

JOAN GROVE, CITY CLERK

ROBERT M. GRISSOM, MAYOR

RACHEL BROADHURST, COUNCIL MEMBER

WILSON CAIN, COUNCIL MEMBER

HARRY CHARLES, COUNCIL MEMBER

JOHN MAXWELL, COUNCIL MEMBER

MARK S. McBRIDE, COUNCIL MEMBER

CRAIN WOODS, COUNCIL MEMBER

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Exhibit D

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RESOLUTION

WHEREAS, serious transportation problems and traffic congestion are an ever increasing threat to the public safety and welfare, and the future economic development of Horry County and the State of South Carolina; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested Transportation Commission Chairman H. B. Limehouse to form a special committee to prepare a study on Horry County transportation problems and potential solutions; and

WHEREAS, a nine-member Road Improvement and Development Effort (RIDE) committee was formed, and has considered both short and long term solutions; and

WHEREAS, the RIDE Committee presented its study results to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996, and to municipal bodies in Horry County on October 3, 1996; and

WHEREAS, the plan presented will provide substantial traffic relief and provides a plan that involves partnering among and between the South Carolina Department of Transportation, the State of South Carolina and Horry County; and

WHEREAS, the South Carolina Department of Transportation commends the RIDE Committee for proposing this partnering concept to address the Horry County transportation concerns;

NOW, THEREFORE, BE IT RESOLVED THAT the South Carolina Department of Transportation Commission strongly and unanimously support the RIDE Committee Report to Governor David M. Beasley; and further, that the following actions be implemented immediately:

THAT the South Carolina Department of Transportation and Horry County proceed with the Conway Bypass Project, listed as the number one priority in the RIDE Report. The scope of the modified Conway Bypass project is to be revised to provide a complete, limited access road. Also, that additional review of other projects in the RIDE Report be conducted to assure all factors have been considered in the setting of priorites and subsequent funding.

Done this 22 day of November, 1996.

H.B. Limehouse, Chairman

S. Lyman Whitehead

Jack E. Mullinax

Arnold S. Goodstein

W.M. "Mat" Self

Bobby T. Jones

Joe Jefferson

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RESOLUTION

Whereas, transportation problems and traffic congestion present a serious concern for the welfare and public safety, and the future economic development of Atlantic Beach, Horry County, and the State of South Carolina; and

Whereas, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H.B. Limehouse, Chairman of the South Carolina Highway Commission, form a special committee which consist of nine members and become known as the Road Improvement and Development Effort (R.I.D.E.) Committee to prepare a study on Horry County transportation problems and potential solutions; and

Whereas, the R.I.D.E. Committee presented the results of the study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996; and

Whereas, the plan provides for substantial relief and requires participation in the funding package by the citizens of Horry County to include a 1.5% hospitality fee for a period of up to twenty years in partnership with the substantial funding; and

Whereas, in order to solve the serious transportation and traffic congestion problem in Horry County it is essential that the people and the governments of Horry County work together harmonically toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that the Atlantic Beach City Council support the R.I.D.E. Committee Report to Governor David M. Beasley; and further urges Horry County Council to enact expeditiously the necessary ordinance to implement the R.I.D.E. Committee Report.

DATED at Atlantic Beach , South Carolina, this 2nd day of December, 1996.

Irene Armstrong, Mayor

Attest:

City Clerk

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STATE OF SOUTH CAROLINA
COUNTY OF HORRY
TOWN OF AYNOR

RESOLUTION

WHEREAS, the serious transportation problems and traffic congestion are an ever increasing threat to the public safety and welfare, and the future economic development of Horry County and the State of South Carolina; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H. B. Limehouse, Chairman of the South Carolina Department of Transportation, form a special committee, which consisted of nine members and became known as the Road Improvement and Development Effort (RIDE Committee), to prepare a study on Horry County transportation problems and potential solutions; and

WHEREAS, the RIDE Committee considered both short term and long term solutions to the serious transportation problems and traffic congestion on Horry County roads; and

WHEREAS, the RIDE Committee presented the results of their study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 18, 1996, and municipal bodies of Horry County on October 3, 1996; and

WHEREAS, the plan presented will provide a substantial traffic relief and require participation in the funding package by the citizens of Horry County, as outlined by the proposed implementation of a 1.5 percent hospitality fee for a period of up to 20 years in partnership with the State of South Carolina, who will contribute substantial funding; and

WHEREAS, in order to solve the serious transportation and traffic congestion problems in Horry County, it is essential that the people and governments of Horry County work together harmoniously toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that Aynor Town Council strongly and unanimously support the RIDE Committee Report to Governor David M. Beasley; and further urges Horry County Council to enact expeditiously

the necessary ordinances to implement the RIDE Committee report.

SIGNED SEALED THIS 21st DAY OF October, 1996.

ATTEST:

JOHN W. DAWSEY, MAYOR

OPAL DORSETT, CITY CLERK

LYNN CAPPS, COUNCIL MEMBER

JOHN GARDNER, COUNCIL MEMBER

KEB JOHNSON, COUNCIL MEMBER

CRAIG MORRISON, COUNCIL MEMBER

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STATE OF SOUTH CAROLINA)
COUNTY OF HORRY) RESOLUTION
CITY OF CONWAY)

WHEREAS, the serious transportation problem and traffic congestion are an ever increasing threat to the public safety and welfare, and the future economic development of Horry County and the State of South Carolina; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H.B. Limehouse, Chairman of the S.C. Department of Transportation, form a special committee which consisted of nine members and became known as the Road Improvement and Development Effort (RIDE Committee), to prepare a study on Horry County transportation problems and potential solutions; and

WHEREAS, the RIDE Committee considered both short term and long term solutions to the serious transportation problems and traffic congestion on Horry County roads; and

WHEREAS, the RIDE Committee presented the results of their study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996, and municipal bodies of Horry County on October 3, 1996; and

WHEREAS, the plan presented will provide substantial traffic relief and require participation in the funding package by the citizens of Horry County, as outlined by the proposed implementation of a 1.5 percent hospitality fee for a period of up to 20 years in partnership with the State of South Carolina, who will contribute substantial funding; and

WHEREAS, in order to solve the serious transportation and traffic congestion problems in Horry County, it is essential that the people and governments of Horry County work together harmoniously toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that Conway City Council strongly and unanimously support the RIDE Committee Report to Governor David M. Beasley; and further urges Horry County Council to enact expeditiously the necessary ordinances to implement the RIDE Committee report.

SIGNED AND SEALED this 28th day of October, 1996.

Gregory K. Martin, Mayor

ATTEST:
Carolyn Stevens, City Clerk

Miriam Webb, Mayor Pro Tem

William A. Graham, Jr.

Edwin F. Brown, Jr.

Leslie H. McIver, Sr.

Barbara Jo Blain

Vivian E. Chestnut

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HORRY COUNTY
BOARD OF EDUCATION

RESOLUTION SUPPORTING
THE R.I.D.E. COMMITTEE REPORT

WHEREAS, the serious transportation problem and traffic congestion are an ever increasing threat to the public safety and welfare of Horry County Schools' students and those who transport them to and from school; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that a special committee be formed, which consisted of nine members and became known as the Road Improvement and Development Effort (RIDE Committee), to prepare a study on Horry County transportation problems and potential solutions; and

WHEREAS, the RIDE Committee considered both short term and long term solutions to the serious transportation problems and traffic congestion on Horry County roads; and

WHEREAS, the RIDE Committee presented to the Governor the results of their study that will provide substantial traffic and that study has since been endorsed by the various governments of Horry County; and

WHEREAS, in order to solve the serious transportation and traffic problems of Horry County, it is essential that the people and governments of Horry County work together harmoniously toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that the Horry County Board of Education supports the RIDE Committee Report and pledges cooperation with other governmental bodies to enact the RIDE Committee's plan.

SIGNED AND SEALED this 18th day of November, 1996.

ATTEST:

Helen M. Smith
Board Chairperson

William A. Graham, Jr.
Board Vice-Chairperson

Irvin F. Anderson Jr.
Board Member

Patti Hilton
Board Member

Ronald Dawsey
Board Member

Yusef Salim
Board Member

Wm. G. Rhodes
Board Member

Ken Summerall
Board Member

Board Member

Wm. Williams
Board Member

Board Member

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RESOLUTION NUMBER 13-96-

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY) R E S O L U T I O N
CITY OF LORIS)

WHEREAS, the serious transportation problems and traffic congestion are an ever increasing threat to the public safety and welfare, and the future economic development of Horry County and the State of South Carolina; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H. B. Limehouse, Chairman of the South Carolina Department Of Transportation, form a special committee, which consisted of nine members and became known as the Road Improvement and Development Effort (Ride Committee), to prepare a study on Horry County Transportation problems and potential solutions; and

WHEREAS, the RIDE Committee considered both short term and long term solutions to the serious transportation problems and traffic congestion on Horry County roads; and

WHEREAS, the RIDE Committee presented the results of their study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996, and municipals bodies of Horry County on October 3, 1996; and

WHEREAS, the plan presented will provide a substantial traffic relief and require participation in the funding package by the citizens of Horry County, as outlined by the proposed implementation of a 1.5 percent hospitality fee for a period of up to 20 years in partnership with the State of South Carolina, who will contribute substantial funding; and

WHEREAS, in order to solve the serious transportation and traffic congestion problems in Horry County, it is essential that the people and governments of Horry County work together harmoniously toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that the City Of Loris strongly and unanimously support the RIDE Committee Report to Governor David M. Beasley; and further urges Horry County Council to enact expeditiously the necessary ordinances to implement the RIDE Committee report.

SIGNED, SEALED THIS 4TH DAY OF NOVEMBER, 1996.

ATTEST:

MARTHA G. DORMAN, CLERK

DAVID E. STOUDENMIRE, JR., MAYOR

MARTIN L. CLINE, COUNCIL

JOAN S. GAUSE, COUNCIL

JAMES R. HERRING, COUNCIL

MICHAEL E. SUGGS, COUNCIL

FRED D. WATSON, COUNCIL

ESTELLE S. WRIGHT, COUNCIL

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R E S O L U T I O N

WHEREAS, transportation problems and traffic congestion present a serious concern for the welfare and public safety, and the future economic development of North Myrtle Beach, Horry County, and the State of South Carolina; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H.B. Limehouse, Chairman of the South Carolina Highway Commission, form a special committee which consisted of nine members and became known as the Road Improvement and Development Effort (R.I.D.E.) Committee to prepare a study on Horry County transportation problems and potential solutions; and

WHEREAS, the R.I.D.E. Committee presented the results of the study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996; and

WHEREAS, the plan provides for substantial relief and requires participation in the funding package by the citizens of Horry County to include a 1.5% hospitality fee for a period of up to twenty years in partnership with the State of South Carolina, who will contribute substantial funding; and

WHEREAS, in order to solve the serious transportation and traffic congestion problem in Horry County it is essential that the people and the governments of Horry County work together harmoniously toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that the North Myrtle Beach City Council support the R.I.D.E. Committee Report to Governor David M. Beasley; and further urges Horry County Council to enact expeditiously the necessary ordinance to implement the R.I.D.E. Committee Report.

DATED at North Myrtle Beach, South Carolina, this 4th day of November, 1996.

Philip H. Tilghman, Mayor

ATTEST:

City Clerk

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Resolution

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
TOWN OF SURFSIDE BEACH)

IN SUPPORT OF THE
R I D E COMMITTEE
REPORT

WHEREAS, the serious transportation problems and traffic congestion are an ever increasing threat to the public safety and welfare, and the future economic development of Horry County and the State of South Carolina; and,

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H.B. Limehouse, Chairman of the South Carolina Department of Transportation, form a special committee, which consisted of nine (9) members, and became know as the "Road Improvement and Development Effort" (RIDE Committee), to prepare a study on Horry County transportation problems and potential solutions; and,

WHEREAS, the RIDE Committee considered both short term and long term solutions to the serious transportation problems and traffic congestion on Horry County Roads; and,

WHEREAS, the RIDE Committee presented the results of their study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996, and municipal bodies of Horry County on October 3, 1996; and,

WHEREAS, the plan presented will provide substantial traffic relief and require participation in the funding package by the citizens of Horry County, as outlined by the proposed implementation of a 1.5 percent Hospitality Fee for a period of up to twenty (20) years, in partnership with the State of South Carolina, which will contribute substantial funding; and,

WHEREAS, in order to solve the serious transportation and traffic congestion problems in Horry County, it is essential that the people and governments of Horry County work together harmoniously toward that common goal,

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Town Council of Surfside Beach strongly and unanimously support the RIDE Committee Report to Governor David M. Beasley, and further urges Horry County Council to expeditiously enact the necessary ordinances to implement the RIDE Committee Report.

SIGNED, SEALED, AND ADOPTED THIS 12th DAY OF October 1996

Dick M. Johnson
MAYOR

TOWN COUNCIL

Thomas M. Hoggard
TOWN COUNCIL

TOWN COUNCIL

Judith L. Lowe
TOWN COUNCIL

P. L. Mabry
TOWN COUNCIL

TOWN COUNCIL

ATTEST:
Glenn H. Bovard
TOWN CLERK

#96-04

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Exhibit E

INCLUDES PROPOSED REVISIONS FOR SECOND READING

STATE OF SOUTH CAROLINA)
) ORDINANCE NO. 7-97
COUNTY OF HORRY)

97 FEB 21 AM 9:52

FILED

WHEREAS, the Horry County Council, in meeting duly assembled, enacted Ordinance No. 105-96 on October 15, 1996; and

WHEREAS, County Council deems it appropriate to clarify certain portions of that ordinance; and

WHEREAS, County Council now desires to amend said ordinance in order to provide authority to use the funds collected pursuant to the ordinance for the purpose of matching state and/or federal funds as may be determined by the Horry County Council to be appropriated.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the Horry County Council, in meeting duly assembled, does hereby amend Ordinance No. 105-96 as follows:

SECTION 1.

Section 1. (A)(2) of Ordinance Number 105-96 shall be amended by the deletion of the language contained therein and by the substitution of the following language therefor:

> Those paid admissions to places of amusement within the County to which the admissions tax imposed by the State of South Carolina pursuant to Section 12-21-2420, et seq. of the South Carolina Code, applies; and

SECTION 2.

Section 1.(A)(3) of Ordinance Number 105-96 shall be amended by the deletion of the language contained therein and by the substitution of the following language therefor:

> The gross proceeds derived from the sale of prepared food and beverages sold for immediate consumption either on or off premises; or maintain licenses for the on-premise consumption of alcohol, beer or wine.

SECTION 3.

Section 1. (A)(3)(G) "Disposition of Hospitality" of Ordinance Number 105-96 shall be further amended by the deletion of the language contained therein and by the substitution of the following language therefor:

Disposition of the Hospitality Fee. All revenues collected from the hospitality fee shall be deposited in two separate funds. The funds derived from the one and one-half percent fee shall be deposited into a Road Special Revenue Fund which will be used to implement a comprehensive road plan adopted by the County in concert with the municipalities of the County. The money in this Fund shall be held in escrow until the said comprehensive road plan is finalized and adopted. Interest generated by this Fund shall accrue to the Fund. The funds derived from the one percent fee shall be deposited in a separate Special Revenue Fund of the County to offset the cost of providing public safety and public works services and infrastructure directly impacted by tourism. In the case of either fund, the costs of collecting the monies may be reimbursed by the Fund monies, up to a maximum of one percent (1%).

EXEMPT

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SECTION 4.

Section 1.(A)(3)(H) "Sunset" of Ordinance Number 105-96 shall be further amended by the deletion of the language contained therein and by the substitution of the following language therefor:

Sunset. The imposition of the one and one-half (1.5%) percent hospitality fee for infrastructure will terminate (a) on 8/1/97 if an appropriate agreement or legislation is not in place from the State of South Carolina to provide their share of the short term funding plan outlined by RIDE or (b) twenty years from the effective date of this ordinance. Should the one and one-half (1.5%) percent hospitality fee be terminated on 8/1/97, all funds collected will be placed in the one percent (1%) Special Revenue Fund of the County and used for services directly impacted by the tourism industry (see G above).

SECTION 5. SEVERABILITY

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

SECTION 6. CONFLICTING ORDINANCES REPEALED

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. EFFECTIVE DATE.

This ordinance shall be effective upon its third reading

FIRST READING: 1-7-97 as amended
SECOND READING: 1-21-97
THIRD READING: 2-4-97

ATTEST:
Rosella H. Carroll
Rosella H. Carroll, Clerk to Council

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HORRY COUNTY COUNCIL

A. Joseph McNutt, Jr., Chairman

Ray Skidmore, Jr., District One

John Kost, District Two

Raymond J. Brown, District Three

Chandler Brigham, District Four

Chandler C. Prosser, District Five

Terry Chambers, District Six

James R. Frazier, District Seven

Elizabeth D. Gilland, District Eight

Ulysses Dewitt, District Nine

Johnny Shelley, District Ten

Janice G. Jordan, District Eleven

ATTEST:

Rosella H. Carroll, Clerk to Council

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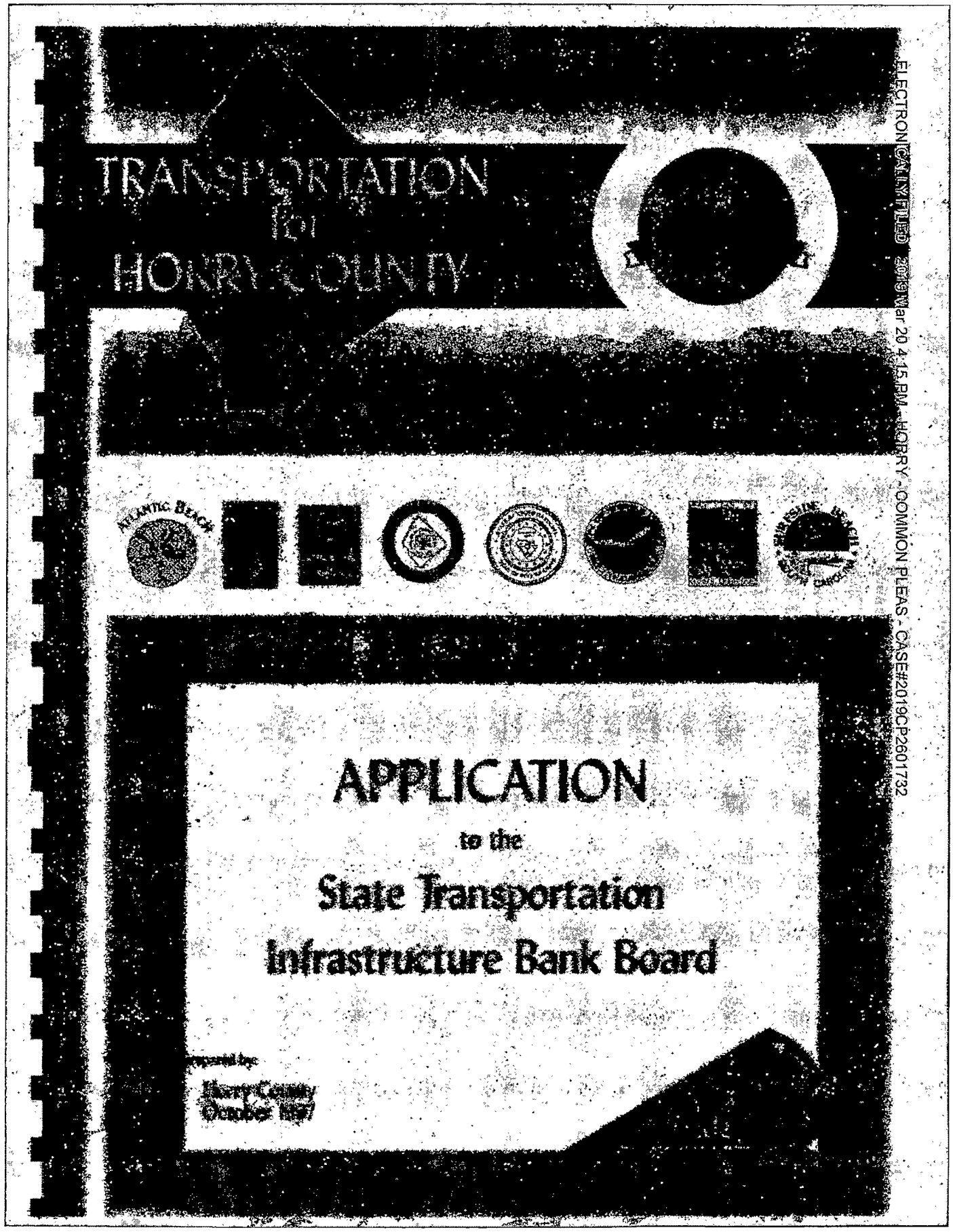
Exhibit F



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EXECUTIVE SUMMARY

On behalf of Horry County, this application is being presented to the South Carolina Transportation Infrastructure Bank as a request for funding of the Road Improvement and Development Effort (RIDE) Project, which was presented to and approved by Governor David M. Beasley in September 1996.

Horry County's RIDE Project is the initiation of a comprehensive solution for transportation problems which pairs significant funding from the local level with funding provided by the State of South Carolina. Horry County enacted an ordinance in the fall of 1996 that implemented a 1.5-percent hospitality fee (accommodations, restaurants, amusements, golf, and theaters) effective January 1, 1997. The purpose of this fee is to provide the financial ability for Horry County to partner with the State of South Carolina to meet the infrastructure needs of the County.

The participating parties of the RIDE Project are Horry County, the South Carolina Transportation Infrastructure Bank and the South Carolina Department of Transportation. The role of the South Carolina Transportation Infrastructure Bank is to provide the necessary financing and funding for the RIDE Project. It is Horry County's intent to contract with the South Carolina Department of Transportation to manage the design, construction, and implementation of the RIDE Project. Horry County, in addition to providing 30 percent of the overall cost of the RIDE Project, will provide limited oversight to ensure that project schedules are met.

The total cost of the RIDE Project is $774 million ($698 million in 1997 dollars, escalated at 4.5 percent per year over the construction period, seven years). The total debt service over the life of the proposed bonds for the RIDE Project is $1.2 billion. Horry County's contribution to retire the debt is $368 million; the South Carolina Transportation Infrastructure Bank is requested to fund the balance of the debt service, $859 million.

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INTRODUCTION

On behalf of Horry County, this application is being presented to the South Carolina Transportation Infrastructure Bank as a request for funding of the Road Improvement and Development Effort (RIDE) Project, which was presented to and approved by Governor David M. Beasley in September 1996. The RIDE Project provides solutions for today's needs as well as addressing the long term transportation requirements for the Grand Strand. This application is requesting funding for the implementation of the RIDE Project. Horry County's RIDE Project is the initiation of a comprehensive solution for transportation problems which pairs significant funding from the local level with funding provided by the State of South Carolina.

DESCRIPTION OF THE PROJECT

The Horry County RIDE Project (implementable between 1998 and 2004) provides relief to the traffic congestion resulting from immense growth in the County's tourist population as well as permanent residents. The current road infrastructure does not accommodate a community with a fluctuating population of 250,000 to 750,000 people daily, and therefore results in significant delays, congestion, frustration, fuel consumption, and safety problems, as well as hurricane evacuation concerns.

The RIDE Project includes a series of interconnected highway construction and road enhancements that will improve the overall transportation network in Horry County. These include (refer to Figure 1):

- **Conway Bypass** - A fully controlled access facility from U.S. 17 [the bridge at Briarcliffe complete with interchange at U.S. 17] to U.S. 501 between Aynor and Conway. The facility will consist of six-lane fill/bridging/paving between U.S. 17 and Carolina Bays Parkway, six-lane fill/bridging/four-lane paving between Carolina Bays Parkway and S.C. 90, three-lane fill/bridging/two-lane paving between S.C. 90 and S.C. 905, and two-lane fill/bridging/paving between S.C. 905 and U.S. 501, with temporary at-grade access allowed at U.S. 501, S.C. 319, U.S. 701, S.C. 905, and S.C. 90. The cost includes the purchase of right-of-way as originally designed.

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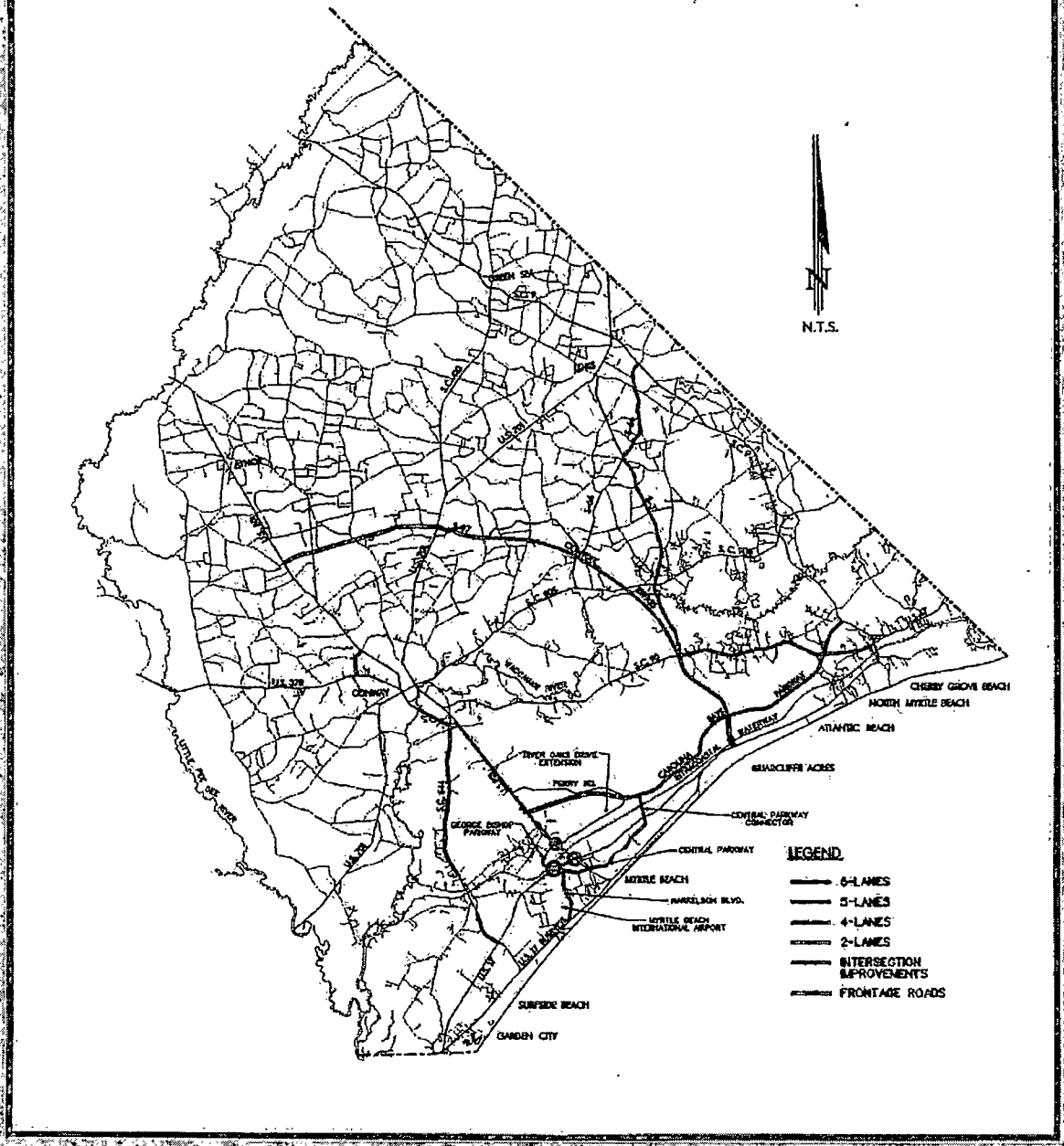
RIDE PROJECT



Ride

Figure 1

- **Carolina Bays Parkway** - A fully controlled access facility, six-lane fill/bridging/four-lane paving from S.C. 9 to U.S. 501, including the Central Parkway connector crossing the Atlantic Intracoastal Waterway to U.S. 17 Bypass [four-lane fill/bridging/two-lane paving]. The cost includes the purchase of right-of-way as originally designed.

- **S.C. 544** - Five lanes from the U.S. 17 Bypass to U.S. 501.

- **U.S. 501** - Frontage road system between the Atlantic Intracoastal Waterway and Forestbrook Road, intersection improvements between Forestbrook Road and the Waccamaw River, and an overpass at George Bishop Boulevard/River Oaks Drive.

- **Central Parkway** - Four lanes from the Central Parkway connector (between 48th Avenue North and 62nd Avenue North) to Harrelson Boulevard (in the vicinity of the Myrtle Beach International Airport).

- **Fantasy Harbour Bridge Interchange** - Four-lane bridge/interchange that will create the final leg of what is to be called the Metropolitan Loop, which includes Central Parkway, George Bishop Boulevard, and River Oaks Drive and Extension.

- **Conway Perimeter Road** -Four lanes from U.S. 501 on the west side of Conway to U.S. 378).

- **Intersection/Interchange Improvements** - Along S.C. 90 between Conway Bypass and S.C. 9, S-31, S-66, and U.S. 17 Bypass.

Appendix A consists of a copy of the RIDE Report to Governor David M. Beasley (September 1996) as well as Resolutions passed supporting the RIDE Project by the municipalities within Horry County, Horry County Board of Education, and South Carolina Department of Transportation. This RIDE report details the objectives of the short and long term transportation needs of Horry County. It also provides a brief history of the difficulty Horry County has faced in trying to fund their transportation infrastructure needs which jeopardizes the significant economic contribution Horry County provides the State of South Carolina through tourism.

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PUBLIC BENEFITS

The Grand Strand has grappled with solutions to severe traffic congestion since 1984. Community business groups, such as the Area Council on Transportation and Carolina Bays Parkway Task Force, have spent over 15 years trying to find solutions to the increasing commuter and tourism traffic along the Grand Strand. The approval of the RIDE Report by Governor David M. Beasley in September 1996 gave the Grand Strand a sense of hope that finally something would be done to alleviate their problems. The Governor's approval led to the passage of Resolutions passed supporting the RIDE Project by the municipalities within Horry County, Horry County Board of Education, and South Carolina Department of Transportation (refer to Appendix A).

Economic benefits of the RIDE Project include both reductions in the cost of transportation and the potential for increased economic activity. Highways are best thought of as "tools" for moving goods and people from one place to another. In this sense, highways lower real and perceived transportation costs. The main way that transportation investments can contribute to economic growth is by reducing the cost of moving people and goods. When they save time, enhance safety, and/or cut vehicle-operating costs, travelers benefit. Their transportation cost savings are net gains to society. Public benefits fall into five primary categories:

- **Economics** – The increase in mobility associated with construction of the RIDE Project can conservatively be expected to increase statewide employment by more than 20,800 jobs by the year 2010.[1] Furthermore, the gross state product (value added) could be increased by $896 million between the years 2001 and 2010. Construction of the RIDE Project is imperative to maintaining the growth of the healthy tourism industry that currently supplies a significant amount of the tax revenue to the State of South Carolina. Currently, approximately 13 million tourists enjoy the Grand Strand and contribute to South Carolina's tax revenues, while experiencing frustration and delays on the roads that make their vacation experience much less than their expectations. Tourism must continue to grow for the area and the State to prosper. Adoption of the RIDE Project will be a major factor in insuring growth rather than decline. The RIDE project also provides an

[1]THE LPA GROUP INCORPORATED in association with Wilbur Smith Associates (September 1993). *Carolina Bays Parkway Feasibility Study.* Prepared for the Horry County Higher Education Commission.

increase in employment that accompanies the resulting growth. This employment growth affects in addition to Horry County, but also Georgetown, Williamsburg, and Marion Counties who are currently experiencing unemployment rates of 8.4, 16.7, and 8.6 percent, respectively, and to some extent Sumter and Florence Counties.

- **Convenience** – Currently both local residents and the 13 million tourists that visit Horry County on an annual basis find themselves driving on congested roads. Without action, the situation will only get worse as Horry County is projected to be the second fastest growing county in the United States through the year 2005. Implementation of the RIDE project, will significantly improve access to and exiting from Myrtle Beach, as well as enhancing daily traffic movement within the County. With the implementation of the RIDE Project, examples of improved mobility across the traffic network would be an average travel speed of 29 miles per hour, 12,524,830 total vehicle miles traveled, and 430,545 total vehicle hours. Without implementation of the RIDE Project, the average network travel speed would be 15 miles per hour, 12,828,510 total vehicle miles traveled, and 839,403 total vehicle hours.

- **Safety** – The road infrastructure in Horry County is currently just over capacity, which has a dramatic impact on traffic flow and access. The completion of the RIDE Project will significantly improve the traffic mobility and safety in Horry County.

- **Emergency Response** – Horry County's increased resident retirement population combined with the transient tourist population makes the need for efficient emergency response times critical to the area. By increasing the capacity of the roads designated in the RIDE Project, a substantial reduction in emergency response times by the public safety departments will result.

- **Hurricane Evacuation** – Hurricane evacuation is another pressing concern for Horry County. Should Horry County experience a hurricane during the peak tourist season, approximately 20 to 30 percent of the visitors and residents would be stranded due to the insufficient road infrastructure. The RIDE Project, once complete, would provide several evacuation route alternatives in addition to the current evacuation routes from the Grand Strand. Theses new routes will significantly improve the safety of evacuation procedures.

Technical analysis of our present highway system reported by the Grand Strand Area Transportation Study (GSATS) indicates that the region's present highway system is operating just over capacity and can not handle significant increases in traffic without intolerable delays. Table A of the daily traffic volumes, provided in Appendix B, is evidence of the benefits resulting from implementation of the RIDE Project.

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FINANCIAL PLAN

Horry County enacted an ordinance in the fall of 1996 that implemented a 1.5-percent hospitality fee (accommodations, restaurants, amusements, golf, and theaters) effective January 1, 1997. The purpose of this fee is to provide the financial ability for Horry County to partner with the State of South Carolina to meet the infrastructure needs of the County. The total cost of the RIDE Project is $774 million ($698 million in 1997 dollars, escalated at 4.5 percent per year over the construction period, seven years, refer to Table 1). The anticipated cash requirements for the RIDE Project is provided in Column 2 on Table 2. The total debt service over the life of the proposed bonds for the RIDE Project is $1.2 billion, as shown in Column 4 on Table 2. Horry County's contribution to retire the debt is $368 million, outlined in Column 5 of Table 2. Horry County is requesting that the South Carolina Transportation Infrastructure Bank fund the balance of the debt service, $859 million as outlined in Column 6 of Table 2.

The projected financial plan includes the following assumptions:

- Local revenues are increased by a combined growth and inflation rate of 6.5 percent per year;
- Construction inflation is projected at 4.5 percent per year using 1997 dollars as the base (except for the Conway Bypass which has been negotiated between Fluor Daniel and South Carolina Department of Transportation); and,
- Twenty-year bonds were utilized with 5.5 percent interest rates.

The degree of financial risk is very low! Local participation for Horry County is funded by the 1.5-percent hospitality fee, which in Horry County carries approximately the same risk as a sales tax (i.e., very low risk). While this source of County participation is subject to severe weather, economic downturns, etc., the projected revenue collection of the hospitality fee allows a contingency amount to address those situations.

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Table 1
RIDE PROJECT
COST TIMELINE

FACILITY	COSTS (1997)	CONSTRUCTION TIMETABLE 1998	1999	2000	2001	2002	2003	2004	TOTAL
Conway Bypass (1997 costs provided by Fluor Daniel 9/16/97)									
U.S. 17 to Carolina Bays Parkway (6/6/6)	$77,500,000		$77,500,000						$77,500,000
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$0								$0
Carolina Bays Parkway to S.C. 90 (6/6/4)	$34,500,000		$34,500,000						$34,500,000
Diamond Interchange (Conway Bypass/S.C. 90)	$0								$0
S.C. 90 to S.C. 905 (3/3/2)	$39,700,000		$39,700,000						$39,700,000
S.C. 905 to S-97 (2/2/2)	$33,100,000			$33,100,000					$33,100,000
S-97 to U.S. 501 (2/2/2)	$33,200,000			$33,200,000					$33,200,000
Grade separations (6)	$24,800,000	$24,800,000							$24,800,000
Superpave	$2,300,000			$2,300,000					$2,300,000
Right-of-Way	$6,000,000	$6,000,000							$6,000,000
Contingency	$24,000,000	$24,000,000							$24,000,000
Subtotal	**$275,100,000**	**$54,800,000**	**$151,700,000**	**$68,600,000**	**$0**	**$0**	**$0**	**$0**	**$275,100,000**
Carolina Bays Parkway (1997 costs provided by LPA/WSA 9/30/97)									
S.C. 9 to Conway Bypass (6/6/4)	$69,600,000	$3,252,282		$7,806,672	$67,555,796				$78,614,750
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$13,000,000	$780,000				$14,530,720			$15,310,720
Conway Bypass to Central Parkway (6/6/4)	$38,800,000	$1,937,809		$1,597,633		$42,214,193			$45,749,635
Central Parkway Connector (4/4/2)	$28,900,000	$1,473,602		$570,583			$33,527,152		$35,571,337
Central Parkway to Carolina Forest Boulevard (6/6/4)	$0								$0
Central Parkway to U.S. 501 (6/6/4)	$65,000,000	$3,072,754		$6,550,294				$72,834,037	$82,457,085
Subtotal	**$215,300,000**	**$10,516,447**	**$0**	**$16,525,181**	**$67,555,796**	**$56,744,913**	**$33,527,152**	**$72,834,037**	**$257,703,526**
Central Parkway									
48th Avenue North to 29th Avenue North	$10,868,000		$527,448	$5,799,406	$5,759,865				$12,086,719
21st Avenue North to 10th Avenue North	$5,434,000	$5,678,530							$5,678,530
10th Avenue North to U.S. 501	$6,270,000		$301,399	$3,313,946	$3,291,351				$6,906,697
U.S. 501 to Harrelson Boulevard	$6,897,000		$470,936	$2,071,217	$5,142,736				$7,684,889
Subtotal	**$29,469,000**	**$5,678,530**	**$1,299,783**	**$11,184,569**	**$14,193,953**	**$0**	**$0**	**$0**	**$32,356,835**
Fantasy Harbour Bridge Interchange	$12,540,000	$3,135,000	$3,276,075	$3,423,498	$3,577,556				$13,412,129
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)	$13,585,000		$740,939	$6,224,542	$8,091,239				$15,056,720
U.S. 17/U.S. 501 Interchange (complete)	$12,853,500		$596,519	$7,132,288	$6,514,133				$14,242,940
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)	$7,837,500			$1,706,043	$17,828,153				$19,534,196
S.C. 544 (5-lanes - U.S. 17 to Socastee Bridge)	$7,419,500		$3,709,750	$3,709,750					$7,419,500

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Table 1
RIDE PROJECT
COST TIMELINE

FACILITY	COSTS (1997)	CONSTRUCTION TIMETABLE							
		1998	1999	2000	2001	2002	2003	2004	TOTAL
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$54,340,000		$3,909,450	$14,298,812		$14,954,183	$15,627,121	$16,330,342	$65,119,908
SC 90 (intersection improvements between Conway Bypass and S.C. 9)	$4,702,500		$5,135,247.56						$5,135,248
S-31 and S-66 (intersection improvements)	$7,524,000		$8,216,396.10						$8,216,396
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	$42,636,000	$10,659,000	$22,277,310	$11,639,895					$44,576,205
U.S. 501/Carolina Forest Boulevard Interchange	$10,450,000		$11,411,661						$11,411,661
U.S. 501 (acceleration/deceleration lanes)	$4,180,000		$4,368,100						$4,368,100
TOTAL	$697,937,000	$84,788,977	$216,641,230	$144,444,578	$117,760,829	$71,699,096	$49,154,273	$89,164,379	$773,653,363
Bond Issue Amounts:		$84,788,977	$216,641,230	$144,444,578	$117,760,829	$71,699,096	$49,154,273	$89,164,379	$773,653,363
Payment for Each Bond (20 Yr. Bond)		$6,725,199	$17,183,311	$11,456,896	$9,340,424	$5,686,950	$3,898,765	$7,072,242	

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Table 2
RIDE PROJECT
DEBT SERVICE SCHEDULE

FISCAL YEAR (7/1-6/30)	SIB BOND AMOUNT REQUIRED*/** (20 Year Term)	ANNUAL BOND DEBT SERVICE AMOUNT	ANNUAL ESTIMATED TOTAL DEBT SERVICE (5.5% for 20 Years)	HORRY COUNTY PORTION OF BOND PAYMENT (Paid to SIB) (30% Contribution Ratio)	STATE PORTION OF BOND PAYMENT**
97/98	$84,788,977	$6,725,199	$6,725,199	$2,017,560	$4,707,639
98/99	$216,641,230	$17,183,311	$23,908,510	$7,172,553	$16,735,957
99/00	$144,444,578	$11,456,896	$35,365,406	$10,609,622	$24,755,784
00/01	$117,760,829	$9,340,424	$44,705,830	$13,411,749	$31,294,081
01/02	$71,699,096	$5,686,950	$50,392,780	$15,117,834	$35,274,946
02/03	$49,154,273	$3,898,765	$54,291,545	$16,287,464	$38,004,082
03/04	$89,164,380	$7,072,242	$61,363,787	$18,409,136	$42,954,651
04/05			$61,363,787	$18,409,136	$42,954,651
05/06			$61,363,787	$18,409,136	$42,954,651
06/07			$61,363,787	$18,409,136	$42,954,651
07/08			$61,363,787	$18,409,136	$42,954,651
08/09			$61,363,787	$18,409,136	$42,954,651
09/10			$61,363,787	$18,409,136	$42,954,651
10/11			$61,363,787	$18,409,136	$42,954,651
11/12			$61,363,787	$18,409,136	$42,954,651
12/13			$61,363,787	$18,409,136	$42,954,651
13/14			$61,363,787	$18,409,136	$42,954,651
14/15			$61,363,787	$18,409,136	$42,954,651
15/16			$61,363,787	$18,409,136	$42,954,651
16/17			$61,363,787	$18,409,136	$42,954,651
17/18			$54,638,588	$16,391,576	$38,247,012
18/19			$37,455,277	$11,236,583	$26,218,694
19/20			$25,998,381	$7,799,514	$18,198,867
20/21			$16,657,957	$4,997,387	$11,660,570
21/22			$10,971,007	$3,291,302	$7,679,705
22/23			$7,072,242	$2,121,673	$4,950,569
TOTAL	**$773,653,363**	**$61,363,787**	**$1,227,275,740**	**$368,182,722**	**$859,093,018**

NOTE: Growth Rate + Inflation Rate Assumed: 6.5%

Source of Local Revenue: 1.5% Hospitality Fee

Debt service calculations are based on annual principal plus interest payments paid at the beginning of each year. 20 Year Term Per Bond. Fixed Interest Rate Used: 5.5%.

* Refer to Table 2 Cost Timetable.

** The SCDOT Commission has committed $114,000,000 (or equivalent debt service) to the South Carolina Transportation Infrastructure Bank for the Conway Bypass.

Other contributions include the South Carolina Department of Transportation commitment of $114 million (or equivalent $10 million debt service per year) to fund a portion of the Conway Bypass phase of the RIDE Project. All components of the RIDE Project have been structured to capture any federal funding that might become available (i.e., appropriate federal regulations and requirements have been and will be followed).

In an effort to reduce maintenance expense and extend the life of the Conway Bypass and Carolina Bays Parkway, the cost of superpaving has been included. This will significantly reduce the routine maintenance effort for the South Carolina Department of Transportation of these primary roads. Horry County will also contribute $100,000 per year for 20 years to the South Carolina Department of Transportation, to be placed in an escrow interest bearing account for use in the resurfacing of the Conway Bypass and Carolina Bays Parkway, as deemed necessary by the South Carolina Department of Transportation. State and local maintenance participation on secondary roads will be defined at the completion of construction of each facility.

Please refer to Table 2, Column 1 for the schedule of requested funds.

PROJECT APPROACH

The project schedule shown on Figure 2, illustrates that given sufficient funding provided by the South Carolina Transportation Infrastructure Bank, South Carolina Department of Transportation, and Horry County, the RIDE Project will be completed with the time frame indicated. The cost estimates outlined in preceding sections of this application are based on building the roads to American Association of State Highway and Transportation Officials (AASHTO) standards. Those standards project a life of 20 years before resurfacing is required. Table 3 provides the project cost components. Table 4 accompanies Figure 2 and outlines the factors (necessary steps) required to initiate construction. At this time there are no obstacles (legal issues, lack of support, environmental concerns) anticipated that would deter the implementation of the RIDE Project.

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RIDE PROJECT SCHEDULE

PROJECT NAME	1998	1999	2000	2001	2002	2003	2004
Conway Bypass							
Carolina Bays Parkway (4-Lane)							
Central Parkway							
Fantasy Harbour Bridge Interchange							
Conway Perimeter Road							
U.S. 17 / 501 Interchange							
U.S. 501 (George Bishop Overpass)							
S.C. 544 (Widening Between Socastee Bridge and Conway)							
S.C. 90 Intersection Improvements							
S-31 / S-66 Intersection Improvements							
U.S. 501 (Frontage Road Between Forestbrook Road and AKW)							
U.S. 501 Carolina Forest Boulevard							
U.S. 501 Improvements							

LEGEND

- Environmental and / or Design
- Right - of - Way Aquisition
- Construction

Ride

Figure 2

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Table 3
RIDE PROJECT
PROJECT COST COMPONENTS

FACILITY	COSTS (1997)	ENVIRONMENTAL/ ENGINEERING	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION	MAINTENANCE
Conway Bypass (1997 costs provided by Fluor Daniel 9/16/97)					
U.S. 17 to Carolina Bays Parkway (6/6/6)	$77,500,000			$77,500,000	
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$0				
Carolina Bays Parkway to S.C. 90 (6/6/4)	$34,500,000			$34,500,000	
Diamond Interchange (Conway Bypass/S.C. 90)	$0				
S.C. 90 to S.C. 905 (3/3/2)	$39,700,000			$39,700,000	
S.C. 905 to S-97 (2/2/2)	$33,100,000			$33,100,000	
S-97 to U.S. 501 (2/2/2)	$33,200,000			$33,200,000	
Grade separations (6)	$24,800,000			$24,800,000	
Superpave	$2,300,000				$2,300,000
Right-of-Way	$6,000,000		$6,000,000		
Contingency	$24,000,000			$24,000,000	
Subtotal	$275,100,000	$0	$6,000,000	$266,800,000	$2,300,000
Carolina Bays Parkway (1997 costs provided by LPA/WSA 9/30/97)					
S.C. 9 to Conway Bypass (6/6/4)	$69,600,000	$3,112,232	$6,840,960	$58,746,808	$900,000
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$13,000,000	$910,000	$0	$11,990,000	$100,000
Conway Bypass to Central Parkway (6/6/4)	$38,800,000	$1,854,363	$1,400,000	$35,245,637	$300,000
Central Parkway Connector (4/4/2)	$28,900,000	$1,410,145	$500,000	$26,789,855	$200,000
Central Parkway to Carolina Forest Boulevard (6/6/4)	$0	$0	$0	$0	
Central Parkway to U.S. 501 (6/6/4)	$65,000,000	$2,940,434	$5,740,000	$55,519,566	$800,000
Subtotal	$215,300,000	$10,227,174	$14,480,960	$188,291,866	$2,300,000
Central Parkway					
48th Avenue North to 29th Avenue North	$10,868,000	$504,735	$5,310,690	$5,052,575	
21st Avenue North to 10th Avenue North	$5,434,000			$5,434,000	
10th Avenue North to U.S. 501	$6,270,000	$288,420	$3,034,680	$2,946,900	
U.S. 501 to Harrelson Boulevard	$6,897,000	$450,656	$1,896,675	$4,549,669	
Subtotal	$29,469,000	$1,243,811	$10,242,045	$17,983,144	$0
Fantasy Harbour Bridge Interchange	$12,540,000			$12,540,000	
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)	$13,585,000	$709,033	$5,700,000	$7,175,968	
U.S. 17/U.S. 501 Interchange (complete)	$12,853,500	$570,831	$6,531,250	$5,751,419	
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)	$7,837,500		$1,706,043	$6,131,457	
S.C. 544 (5-lanes - U.S. 17 to Socastee Bridge)	$7,419,500			$7,419,500	
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$54,340,000	$3,741,100	$13,093,850	$37,505,050	
S.C. 90 (intersection improvements between Conway Bypass and S.C. 9)	$4,702,500	$300,437.50	$1,306,250	$3,095,813	

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Table 3
RIDE PROJECT
PROJECT COST COMPONENTS

FACILITY	COSTS (1992)	ENVIRONMENTAL/ ENGINEERING	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION	MAINTENANCE
S-31 and S-66 (intersection improvements)	$7,524,000	$540,787.50	$1,567,500	$5,415,713	
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	$42,636,000	$1,358,500.00		$41,277,500	
U.S. 501/Carolina Forest Boulevard Interchange	$10,450,000	$627,000	$418,000	$9,405,000	
U.S. 501 (acceleration/deceleration lanes)	$4,180,000	$250,800	$522,500	$3,406,700	
TOTAL	$697,937,000	$19,569,474	$61,568,398	$612,199,128	$4,600,000

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Table 1
RIDE PROJECT
PROJECT STATUS

FACILITY	ENVIRONMENTAL	PERMITTING	PRELIMINARY DESIGN	FINAL DESIGN	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION
Conway Bypass	complete	complete	complete	underway	underway	initiated
Carolina Bays Parkway	underway	underway				
Central Parkway			underway			
Fantasy Harbour Bridge Interchange						
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)						
U.S. 17/U.S. 501 Interchange (complete)						
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)						
S.C. 544 (5-lanes - U.S. 17 to Socastee Bridge)	complete	complete	complete	underway	underway	
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)						
S.C. 90 (intersection improvements between Conway Bypass and S.C. 9)						
S-31 and S-66 (intersection improvements)						
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	complete	complete	complete	underway	underway	
U.S. 501/Carolina Forest Boulevard Interchange						
U.S. 501 (acceleration/deceleration lanes)						

The participating parties of the RIDE Project are Horry County, the South Carolina Transportation Infrastructure Bank, and the South Carolina Department of Transportation. The role of the South Carolina Transportation Infrastructure Bank is to provide the necessary financing and funding for the RIDE Project.

It is Horry County's intent to contract with the South Carolina Department of Transportation to manage the design, construction, and implementation of the RIDE Project. Horry County, in addition to providing 30 percent of the overall cost of the RIDE Project, will provide limited oversight to ensure that project schedules are met.

Upon receipt of funding, South Carolina Department of Transportation is responsible for the construction of the RIDE Project including design, right-of-way, construction, maintenance, etc. South Carolina Department of Transportation is to use its judgement in determining whether a specific phase of the RIDE project should be design/build, traditional, or any other methodology of road construction so as to meet the schedule outlined in the RIDE Project (refer to Figure 2).

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OFFICE OF COUNTY ADMINISTRATOR

LINDA G. ANGUS, COUNTY ADMINISTRATOR

October 15, 1997

Mr. Howard "Champ" Covington, Jr., Chairman
South Carolina State Transportation
Infrastructure Bank
P.O. Box 191
Columbia, South Carolina 29202-0191

Dear Mr. Covington,

Horry County is pleased to submit twenty (20) copies of our application to the State Transportation Infrastructure Bank for funding of the Road Improvement and Development Effort (RIDE) Project, which was presented to and approved by Governor David M. Beasley in September 1996, and has been endorsed by all the local governing bodies of Horry County.

Your approval and subsequent financing of this project will be the first step in implementing this much needed infrastructure improvement necessary to sustain the economic viability and growth of the Grand Strand, as well as ensure safe travelways and evacuation routes for tourists and local citizens of Horry County.

It has been brought to our attention that the Bank may consider additional funding to four-lane the Conway Bypass in its entirety. The RIDE project (which two lanes a portion of the Conway Bypass) presented in the application is the plan adopted by the RIDE Committee. This plan was formulated after many meetings, public input and consideration of financial limitations. Any change to the plan presented must be approved by the RIDE Committee.

Horry County would like the Bank to know that, while the completion of the Conway Bypass is very important, it can in no way jeopardize the implementation of the entire RIDE project as presented. Therefore, if the Bank decides to add the additional $147 million required to four-lane the entire Bypass, the RIDE Committee and the County would agree to that addition of state funds provided the funding for the RIDE project remains intact as presented.

Sincerely,
HORRY COUNTY

Linda Green Angus
County Administrator

LGA:sb
ride

Attachments

c: The Honorable John Kost
The Honorable James Frazier
Gary Loftus, RIDE Chairman
Steven S. Gosnell, P.E., Director of Public Works Division
Tanya Quickel, Director of Finance Division

*103 Elm Street • Post Office Box 1236 • Conway, SC 29528-1236 • **Phone:** 248-1203 • 626-1203 • **Fax:** 248-1378*

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Exhibit G

COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)

RESOLUTION NUMBER 224-97

A RESOLUTION REAFFIRMING HORRY COUNTY COUNCIL'S SUPPORT OF BUILDING THE ROADS OUTLINED IN THE "RIDE PLAN" AS APPROVED AND ENDORSED BY ORDINANCE NUMBER 105-96, AND PLEDGING FINANCIAL SUPPORT THROUGH DEDICATION OF REVENUE DERIVED FROM A COUNTY-WIDE HOSPITALITY FEE:

WHEREAS, Horry County Council passed Ordinance Number 105-96 on October 15, 1996, to collect a Hospitality Fee to pay for road construction pursuant to the RIDE Plan; and

WHEREAS, Ordinance Number 105-96 implemented a one and one-half percent Hospitality Fee to be used to provide the county portion of funding for the RIDE Plan; and

WHEREAS, Governor Beasley and SCDOT endorsed the RIDE Plan as the preferred solution to the traffic problems of Horry County; and

WHEREAS, Horry County remains firm on its commitment to the RIDE Plan as the minimum solution to the county's transportation crisis; and

WHEREAS, State funding is being provided through the newly formed State Infrastructure Bank (SIB) allowing for a lesser percentage participation by Horry County; and

WHEREAS, the State Infrastructure Bank has indicated a desire to have a resolution from Horry County Council reaffirming its support of the roads outlined in the RIDE Plan and supporting Horry County's application to the State Infrastructure Bank.

NOW THEREFORE, BE IT RESOLVED BY THE HORRY COUNTY COUNCIL, duly assembled, that the Horry County Council reaffirms its support of the RIDE Plan as presented to and approved by Governor David Beasley in September, 1996, and supports, endorses and approves its amended application to the State Infrastructure Bank to be presented on November 24, 1997.

Dated this 18th day of November, 1997.

HORRY COUNTY COUNCIL

Chandler C. Prosser, Chairman

Ray Skidmore, Jr., District 1
John Kost, District 2
Raymond J. Brown, District 3
Chandler Brigham, District 4
Terry Chambers, District 6
James R. Frazier, District 7
Elizabeth S. Gilland, District 8
Ulysses Dewitt, District 9
Johnny Shelley, District 10
Janice Jordan, District 11

ATTEST:

Rosella H. Carroll, Clerk to Council

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Exhibit H

TRANSPORTATION for HORRY COUNTY

Revised

APPLICATION

to the

State Transportation Infrastructure Bank Board

Submitted by:

Horry County
November 1997

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OFFICE OF COUNTY ADMINISTRATOR

LINDA G. ANGUS, COUNTY ADMINISTRATOR

November 20. 1997

Mr. Howard "Champ" Covington. Chairman
South Carolina Transportation Infrastructure Bank
955 Park Street
Post Office Box 191
Columbia. SC 29202

RE: Revised Horry County Application

Dear Mr. Covington:

Horry County is pleased to submit for the Bank's review the revised application. as directed by the Bank on November 11. 1997. Please note that Horry County Council approved a unanimously resolution supporting the application on November 18. 1997 (included as Appendix A in the application). We have also provided the Bank's review copies of the Ordinances that implement the 1.5 percent hospitality fee (included as Appendix B in the application).

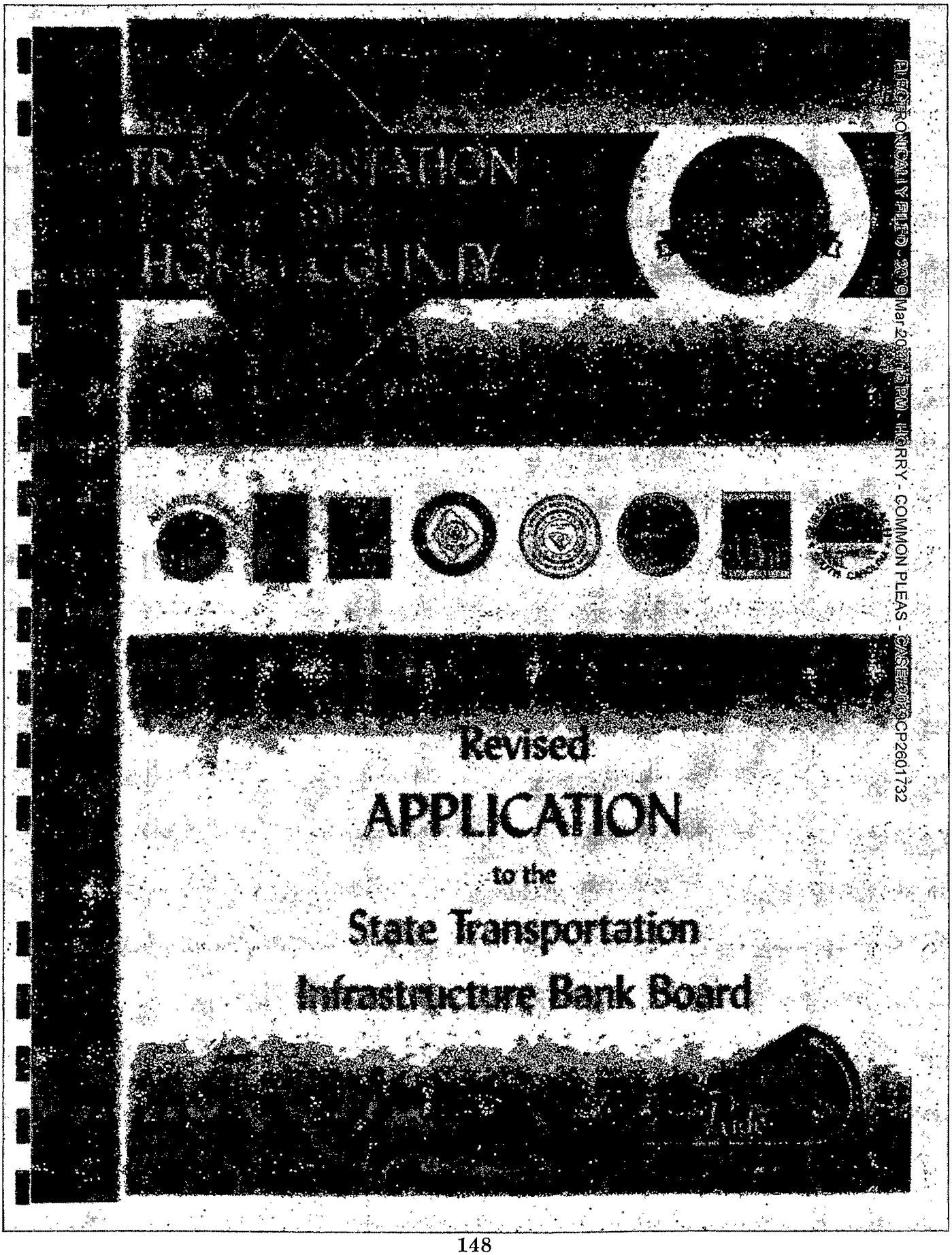
The County looks forward to a favorable review and approval of this resubmittal. In the meantime should you have any questions please call me at (803) 248-1203.

Sincerely.

Linda G. Angus
Horry County Administrator

LGA/slp
enclosures

103 Elm Street • Post Office Box 1236 • Conway, SC 29528-1236 • Phone: 248-1203 • 626-1203 • Fax: 248-1378



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EXECUTIVE SUMMARY

On behalf of Horry County, this revised application is being presented to the South Carolina Transportation Infrastructure Bank as a request for funding a portion of the Horry County Road Improvement and Development Effort Project (County RIDE Project). The Original County RIDE Project was presented to and approved by Governor David M. Beasley in September 1996.

Horry County's RIDE Project is the initiation of a comprehensive solution for transportation problems which pairs significant funding from the local level (49 percent) with funding provided by the State of South Carolina. Horry County enacted an ordinance in the fall of 1996 that implemented a 1.5-percent hospitality fee (accommodations, restaurants, amusements, golf, and theaters) effective January 1, 1997. The purpose of this fee is to provide the financial ability for Horry County to partner with the State of South Carolina to meet the infrastructure needs of the County.

The participating parties of the County RIDE Project are Horry County, the South Carolina Transportation Infrastructure Bank, and the South Carolina Department of Transportation. The role of the South Carolina Transportation Infrastructure Bank is to provide the necessary financing and funding for the County RIDE Project. It is Horry County's intent to contract with the South Carolina Department of Transportation to manage the design, construction, and implementation of the County RIDE Project. Horry County, in addition to providing 49 percent of the overall cost of the County RIDE Project, will provide limited oversight to ensure that project schedules are met.

The revised cost of the County RIDE Project that is being requested for funding by the South Carolina Transportation Infrastructure Bank is $545 million. The total debt service over the life of the proposed bonds for the County RIDE Project is $864.6 million. Horry County's contribution to retire the debt is $300 million; the South Carolina Transportation Infrastructure Bank is requested to fund the balance of the debt service, $564.6 million.

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INTRODUCTION

On behalf of Horry County, this revised application is being presented to the South Carolina Transportation Infrastructure Bank as a request for funding a portion of the Road Improvement and Development Effort Project (County RIDE Project, refer to Appendix A for a copy of the Resolution). The Original RIDE Project was presented to and approved by Governor David M. Beasley in September 1996. The County RIDE Project provides solutions for today's needs as well as addressing the long term transportation requirements for the Grand Strand. This application is requesting funding for the implementation of the County RIDE Project. Horry County's RIDE Project is the initiation of a comprehensive solution for transportation problems which pairs significant funding from the local level with funding provided by the State of South Carolina.

DESCRIPTION OF THE PROJECT

The Horry County RIDE Project (implementable between 1998 and 2004) provides relief to the traffic congestion resulting from immense growth in the County's tourist population as well as permanent residents. The current road infrastructure does not accommodate a community with a fluctuating population of 250,000 to 750,000 people daily, and therefore results in significant delays, congestion, frustration, fuel consumption, and safety problems, as well as hurricane evacuation concerns.

The revised County RIDE Project for which funding is being requested by Horry County from the South Carolina Transportation Infrastructure Bank includes (refer to Figure 1):

- **Conway Bypass** - A fully controlled access facility from U.S. 17 [the bridge at Briarcliffe complete with interchange at U.S. 17] to U.S. 501 between Aynor and Conway. The facility will consist of six-lane fill/bridging/paving between U.S. 17 and Carolina Bays Parkway, four-lane fill/bridging/paving between Carolina Bays Parkway and S.C. 90, two-lane fill/bridging/paving between S.C. 90 and U.S. 501, with diamond interchanges at U.S. 501, S.C. 319, U.S. 701, S.C. 905, and S.C. 90. The cost includes the purchase of right-of-way as originally designed by the South Carolina Department of Transportation.

REVISED HORRY COUNTY RIDE PROJECT

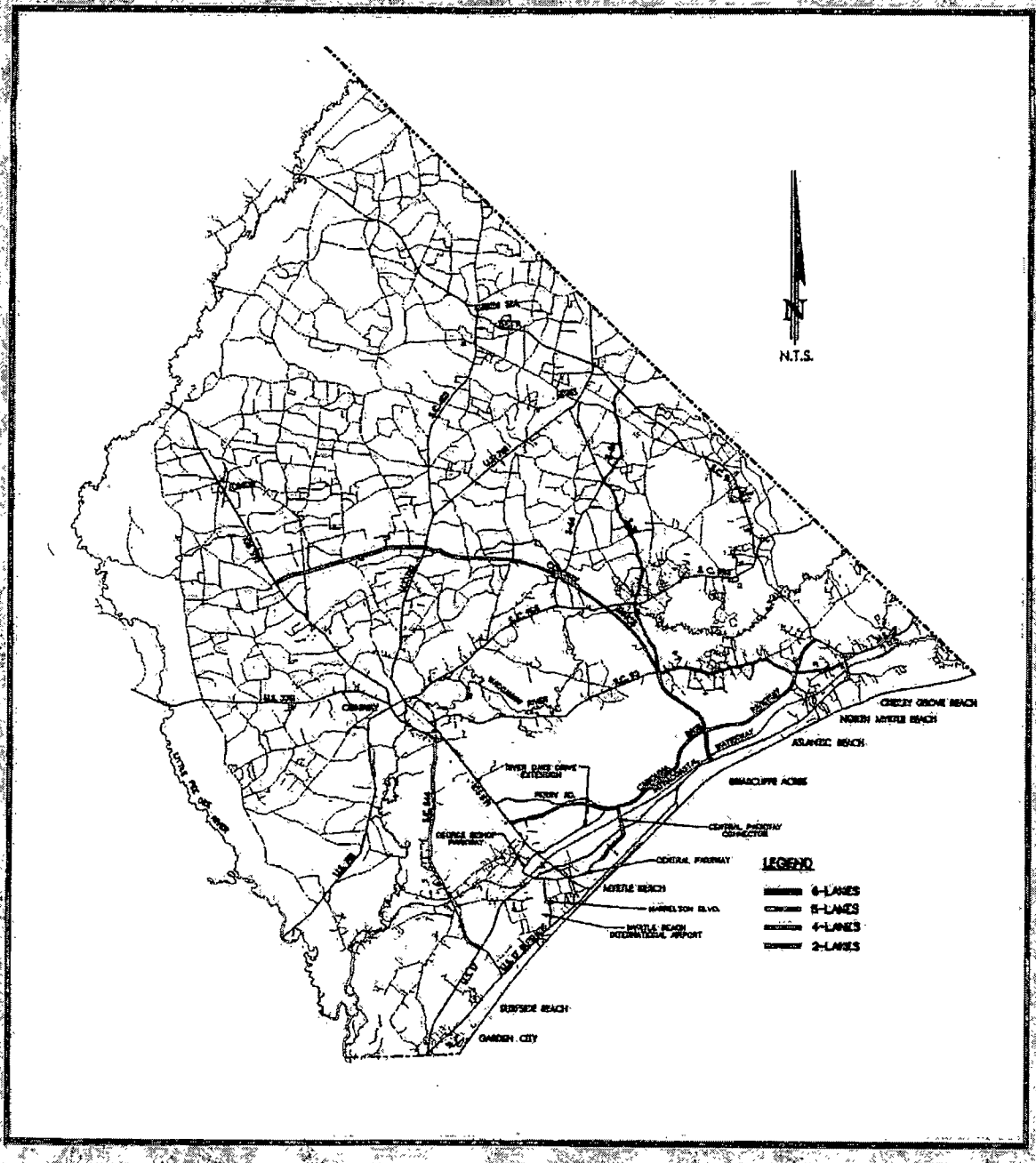

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Figure 1

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- **Carolina Bays Parkway** - A fully controlled access facility, six-lane fill/six-lane bridging/four-lane paving from S.C. 9 to U.S. 501, including the Central Parkway connector crossing the Atlantic Intracoastal Waterway to U.S. 17 Bypass [four-lane fill/four-lane bridging/two-lane paving]. The cost includes the purchase of right-of-way as originally designed by the South Carolina Department of Transportation.

- **S.C. 544** - Five lanes from the U.S. 17 Bypass to U.S. 501.

The remainder of the County RIDE Project includes a series of interconnected highway construction and Road enhancements that will improve the overall transportation network in Horry County includes (refer to Figure 2):

- S.C. 544 - Five lanes from the Socastee Bridge to U.S. 501. The portion of this project required by Horry County to bring this project to completion above and beyond the commitment by the South Carolina Transportation Infrastructure Bank.

- **U.S. 501** - Frontage road system between the Atlantic Intracoastal Waterway and Forestbrook Road, intersection improvements between Forestbrook Road and the Waccamaw River, and an overpass at George Bishop Boulevard/River Oaks Drive.

- **Central Parkway** - Four lanes from the Central Parkway connector (between 48th Avenue North and 62nd Avenue North) to Harrelson Boulevard (in the vicinity of the Myrtle Beach International Airport).

- **Fantasy Harbour Bridge Interchange** - Four-lane bridge/interchange that will create the final leg of what is to be called the Metropolitan Loop, which includes Central Parkway, George Bishop Boulevard, and River Oaks Drive and Extension.

- **Conway Perimeter Road** -Four lanes from U.S. 501 on the west side of Conway to U.S. 378).

- **Intersection/Interchange Improvements** - Along S.C. 90 between Conway Bypass and S.C. 9, S-31, S-66, and U.S. 17 Bypass.

HORRY COUNTY'S PORTION OF RIDE PROJECT

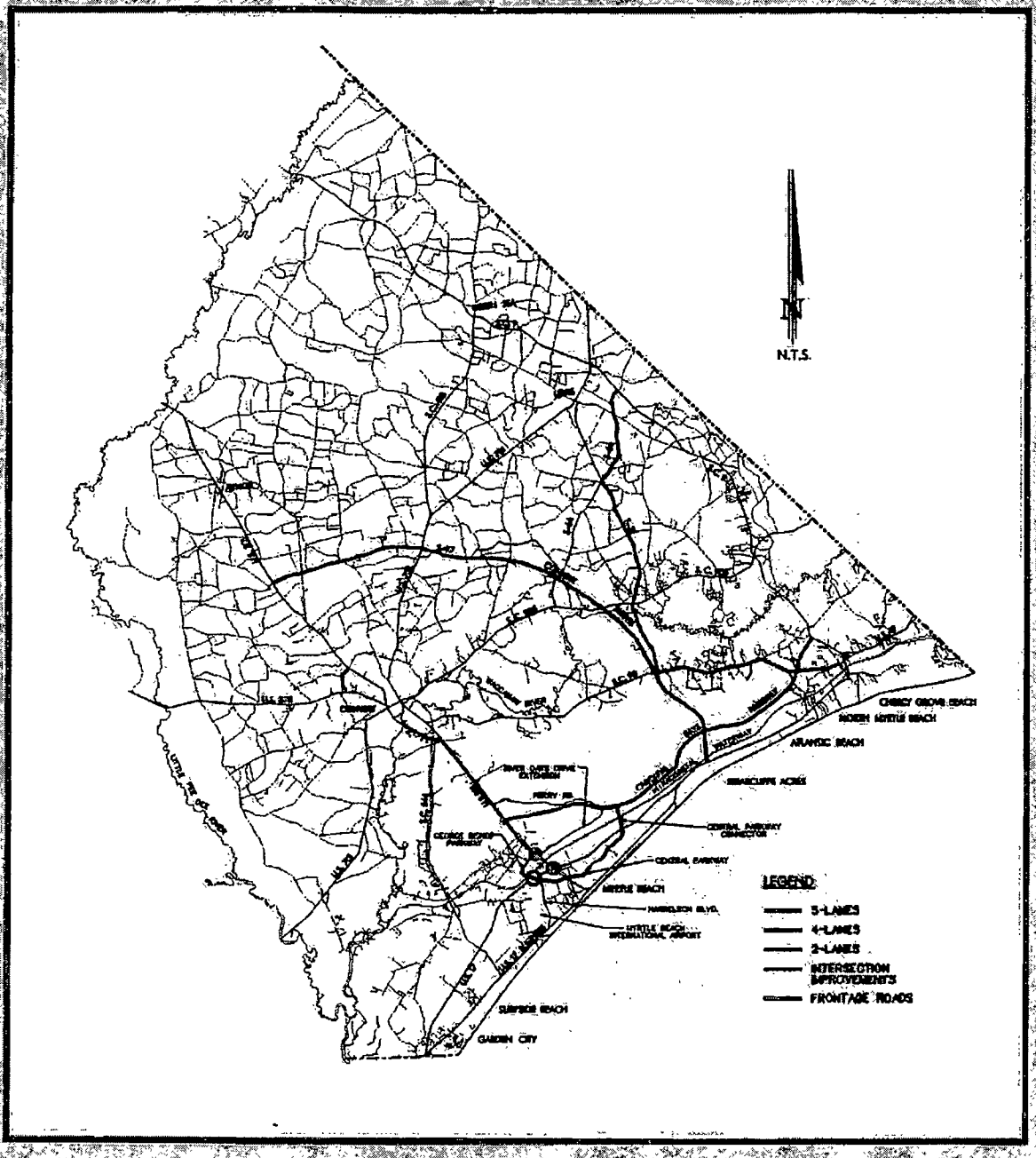

Figure 2

11/24/97

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PUBLIC BENEFITS

Refer to the original application submitted to the South Carolina Transportation Infrastructure Bank on October 15, 1997.

FINANCIAL PLAN

Horry County enacted an ordinance in the fall of 1996 that implemented a 1.5-percent hospitality fee (accommodations, restaurants, amusements, golf, and theaters) effective January 1, 1997 (refer to Appendix B for copies of the Ordinances). The purpose of this fee is to provide the financial ability for Horry County to partner with the State of South Carolina to meet the infrastructure needs of the County. The total cost of the revised County RIDE Project is $545 million (1997 dollars, which escalates to approximately $593 million over the seven year construction period, refer to Table 1). The anticipated cash requirements for the revised County RIDE Project is provided in Column 2 on Table 2. The total debt service over the life of the proposed bonds for the County RIDE Project is $864.6 million, as shown in Column 4 on Table 2. Horry County's contribution to retire the debt is $300 million, outlined in Column 5 of Table 2. Horry County is requesting that the South Carolina Transportation Infrastructure Bank fund the balance of the debt service, $564.6 million as outlined in Column 6 of Table 2.

The projected financial plan includes the following assumptions:

- Local revenues are increased by a combined growth and inflation rate of 6.5 percent per year;
- Construction inflation is projected at 4.5 percent per year using 1997 dollars as the base (except for the Conway Bypass which has been negotiated between Fluor Daniel and South Carolina Department of Transportation); and,
- Twenty-year bonds were utilized with 5.5 percent interest rates.

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Table 1
REVISED HORRY COUNTY RIDE PROJECT
COST TIMELINE

FACILITY	ESTIMATED COST (1997)	CONSTRUCTION TIMETABLE 1998	1999	2000	2001	2002	2003	2004	TOTAL
Conway Bypass (1997 costs provided by Fluor Daniel 9/16/97, revised 11/18/97)	$291,300,000	$54,800,000	$159,800,000	$76,700,000	$0	$0	$0	$0	$291,300,000
Carolina Bays Parkway (1997 costs provided by LPA/WSA 9/30/97)									
S.C. 9 to Conway Bypass (6/6/4)	$69,600,000	$3,252,282		$7,806,672	$67,555,796				$78,614,750
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$13,000,000	$780,000				$14,530,720			$15,310,720
Conway Bypass to Central Parkway (6/6/4)	$38,800,000	$1,937,809		$1,597,633		$42,214,193			$45,749,635
Central Parkway Connector (4/4/2)	$28,900,000	$1,473,602		$570,583			$33,527,152		$35,571,337
Central Parkway to Carolina Forest Boulevard (6/6/4)	$0								$0
Central Parkway to U.S. 501 (6/6/4)	$65,000,000	$3,072,754		$6,550,294				$72,834,037	$82,457,085
Subtotal	$215,300,000	$10,516,447	$0	$16,525,181	$67,555,796	$56,744,913	$33,527,152	$72,834,037	$257,703,526
S.C. 544 (5-lanes - U.S. 17 to Socastee Brjdge)	$7,419,500		$3,709,750	$3,709,750					$7,419,500
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$30,980,500		$3,909,450	$14,298,812		$18,531,349			$36,739,610
TOTAL	$545,000,000	$65,316,447	$167,419,200	$111,233,743	$67,555,796	$75,276,261	$33,527,152	$72,834,037	$593,162,636
Bond Issue Amounts:		$65,316,447	$167,419,200	$111,233,743	$67,555,796	$75,276,261	$33,527,152	$24,671,401	$545,000,000
Horry County Additional Funds								$48,162,636	
Payment for Each Bond (20 Yr. Bond)		$5,180,698	$13,279,172	$8,822,716	$5,358,316	$5,970,680	$2,659,270	$1,956,859	$43,227,711

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Table 2
REVISED HORRY COUNTY RIDE PROJECT
DEBT SERVICE SCHEDULE

FISCAL YEAR (7/1-6/30)	SIB BOND AMOUNT REQUIRED*/** (20 Year Term)	ANNUAL BOND DEBT SERVICE AMOUNT	ANNUAL ESTIMATED TOTAL DEBT SERVICE (5.5% for 20 Years)	HORRY COUNTY PORTION OF BOND PAYMENT (Paid to SIB) (35% Contribution Ratio)	STATE PORTION OF BOND PAYMENT**
97/98	$65,316,447	$5,180,698	$5,180,698	$15,000,000	($9,819,302)
98/99	$167,419,200	$13,279,172	$18,459,870	$15,000,000	$3,459,870
99/00	$111,233,743	$8,822,716	$27,282,586	$15,000,000	$12,282,586
00/01	$67,555,796	$5,358,316	$32,640,902	$15,000,000	$17,640,902
01/02	$75,276,261	$5,970,680	$38,611,582	$15,000,000	$23,611,582
02/03	$33,527,152	$2,659,270	$41,270,852	$15,000,000	$26,270,852
03/04	$24,671,401	$1,956,859	$43,227,711	$15,000,000	$28,227,711
04/05			$43,227,711	$15,000,000	$28,227,711
05/06			$43,227,711	$15,000,000	$28,227,711
06/07			$43,227,711	$15,000,000	$28,227,711
07/08			$43,227,711	$15,000,000	$28,227,711
08/09			$43,227,711	$15,000,000	$28,227,711
09/10			$43,227,711	$15,000,000	$28,227,711
10/11			$43,227,711	$15,000,000	$28,227,711
11/12			$43,227,711	$15,000,000	$28,227,711
12/13			$43,227,711	$15,000,000	$28,227,711
13/14			$43,227,711	$15,000,000	$28,227,711
14/15			$43,227,711	$15,000,000	$28,227,711
15/16			$43,227,711	$15,000,000	$28,227,711
16/17			$43,227,711	$15,000,000	$28,227,711
17/18			$38,047,013	$0	$38,047,013
18/19			$24,767,841	$0	$24,767,841
19/20			$15,945,125	$0	$15,945,125
20/21			$10,586,809	$0	$10,586,809
21/22			$4,616,129	$0	$4,616,129
22/23			$1,956,859	$0	$1,956,859
TOTAL	**$545,000,000**	**$43,227,711**	**$864,554,220**	**$300,000,000**	**$564,554,220**

NOTE: Growth Rate + Inflation Rate Assumed: 6.5%

Source of Local Revenue: 1.5% Hospitality Fee

Debt service calculations are based on annual principal plus interest payments paid at the beginning of each year. 20 Year Term Per Bond. Fixed Interest Rate Used: 5.5%.

* Refer to Table 1Cost Timetable.

** The SCDOT Commission has committed $114,000,000 (or equivalent debt service) to the South Carolina Transportation Infrastructure Bank for the Conway Bypass.

The degree of financial risk is very low! Local participation for Horry County is funded by the 1.5-percent hospitality fee, which in Horry County carries approximately the same risk as a sales tax (i.e., very low risk). While this source of County participation is subject to severe weather, economic downturns, etc., the projected revenue collection of the hospitality fee allows a contingency amount to address those situations.

Other contributions include the South Carolina Department of Transportation commitment of $114 million (or equivalent $10 million debt service on $114 million per year) to fund a portion of the Conway Bypass phase of the County RIDE Project. All components of the County RIDE Project have been structured to capture any federal funding that might become available (i.e., appropriate federal regulations and requirements have been and will be followed).

In an effort to reduce maintenance expense and extend the life of the Conway Bypass and Carolina Bays Parkway, the cost of superpaving has been included. This will significantly reduce the routine maintenance effort for the South Carolina Department of Transportation of these primary roads. Horry County will also contribute $100,000 per year for 20 years to the South Carolina Department of Transportation, to be placed in an escrow interest bearing account for use in the resurfacing of the Conway Bypass and Carolina Bays Parkway, as deemed necessary by the South Carolina Department of Transportation. State and local maintenance participation on secondary roads will be defined at the completion of construction of each facility.

Horry County will implement the remainder of the County RIDE Project, with assistance from the South Carolina Department of Transportation in the form of a contract to manage the design, construction, and implementation, as well as bonding. The total cost of the remainder County RIDE Project is $199.4 million ($169.1 million in 1997 dollars, escalated at 4.5 percent per year over the construction period, seven years, refer to Table 3). Horry County's participation in implementing this plan in no way eliminates or reduces any funding that the County would normally receive through the Metropolitan Planning Organization guideshare, other standard revenue sharing plans, or critical needs implemented through normal South Carolina Department of Transportation funding.

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Table 3
HORRY COUNTY'S PORTION OF THE RIDE PROJECT
COST TIMELINE

FACILITY	ESTIMATED COST (1997)	CONSTRUCTION TIMETABLE							
		1998	1999	2000	2001	2002	2003	2004	TOTAL
Central Parkway									
48th Avenue North to 29th Avenue North	$10,868,000		$527,448	$5,799,406	$5,759,865				$12,086,719
21st Avenue North to 10th Avenue North	$5,434,000	$5,678,530							$5,678,530
10th Avenue North to U.S. 501	$6,270,000		$301,399	$3,313,946	$3,291,351				$6,906,697
U.S. 501 to Harrelson Boulevard	$6,897,000		$470,936	$2,071,217	$5,142,736				$7,684,889
Subtotal	**$29,469,000**	**$5,678,530**	**$1,299,783**	**$11,184,569**	**$14,193,953**	**$0**	**$0**	**$0**	**$32,356,835**
Fantasy Harbour Bridge Interchange	$12,540,000	$3,135,000	$3,276,075	$3,423,498	$3,577,556				$13,412,129
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)	$13,585,000		$740,939	$6,224,542	$8,091,239				$15,056,720
U.S. 17/U.S. 501 Interchange (complete)	$12,853,500		$596,519	$7,132,288	$6,514,133				$14,242,940
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)	$7,837,500			$1,706,043	$17,828,153				$19,534,196
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$23,359,500						$15,210,073	$15,894,526	$31,104,599
SC 90 (intersection improvements between Conway Bypass and S.C. 9)	$4,702,500		$5,135,247.56						$5,135,248
S-31 and S-66 (intersection improvements)	$7,524,000		$8,216,396.10						$8,216,396
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	$42,636,000	$10,659,000	$22,277,310	$11,639,895					$44,576,205
U.S. 501/Carolina Forest Boulevard Interchange	$10,450,000		$11,411,661						$11,411,661
U.S. 501 (acceleration/deceleration lanes)	$4,180,000		$4,368,100						$4,368,100
TOTAL	**$169,137,000**	**$19,472,530**	**$57,322,030**	**$41,310,836**	**$50,205,033**	**$0**	**$15,210,073**	**$15,894,526**	**$199,415,028**

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PROJECT APPROACH

The revised County RIDE Project schedule shown on Figure 3 and Table 4 illustrates that given sufficient funding provided by the South Carolina Transportation Infrastructure Bank, South Carolina Department of Transportation, and Horry County, the revised County RIDE Project will be completed within the time frame indicated. Table 5 accompanies Figure 3 and outlines the factors (necessary steps) required to initiate construction. At this time there are no obstacles (legal issues, lack of support, environmental concerns) anticipated that would deter the implementation of the revised County RIDE Project.

The schedule, project components, and factors necessary to initiate construction for the remainder of the County RIDE Project is outlines in Figure 4 and Tables 6 and 7.

The participating parties of the County RIDE Project are Horry County, the South Carolina Transportation Infrastructure Bank, and the South Carolina Department of Transportation. The role of the South Carolina Transportation Infrastructure Bank is to provide the necessary financing and funding for the County RIDE Project.

It is Horry County's intent to contract with the South Carolina Department of Transportation to manage the design, construction, implementation, and assist in bonding of the County RIDE Project. Horry County, in addition to providing 49 percent of the overall cost of the County RIDE Project, will provide limited oversight to ensure that project schedules are met.

Upon receipt of funding, South Carolina Department of Transportation is responsible for the construction of the County RIDE Project including design, right-of-way, construction, maintenance, etc. South Carolina Department of Transportation is to use its judgement in determining whether a specific phase of the County RIDE Project should be design/build, traditional, or any other methodology of road construction so as to meet the schedule outlined in the County RIDE Project (refer to Figures 3 and 4).

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REVISED HORRY COUNTY RIDE PROJECT SCHEDULE

PROJECT NAME	1998	1999	2000	2001	2002	2003	2004
Conway Bypass							
Carolina Bays Parkway (4-Lane)							
S.C. 544 (Widening Between U.S. 17 and Socastee Bridge)				(Infrastructure Bank/SCDOT)			
S.C. 544 (Widening Between Socastee Bridge and U.S. 501)						(Infrastructure Bank/SCDOT)	

LEGEND

- **Environmental and / or Design**
- **Right - of - Way Aquisition**
- **Construction**

Ride

Figure 3

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Table 4
REVISED HORRY COUNTY RIDE PROJECT
PROJECT COST COMPONENTS

FACILITY	ESTIMATED COST (1997)	ENVIRONMENTAL/ ENGINEERING	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION	MAINTENANCE
Conway Bypass (1997 costs provided by Fluor Daniel 9/16/97, revised 11/18/97)	$291,300,000	$0	$6,000,000	$283,000,000	$2,300,000
Carolina Bays Parkway (1997 costs provided by LPA/WSA 9/30/97)					
S.C. 9 to Conway Bypass (6/6/4)	$69,600,000	$3,112,232	$6,840,960	$58,746,808	$900,000
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$13,000,000	$910,000	$0	$11,990,000	$100,000
Conway Bypass to Central Parkway (6/6/4)	$38,800,000	$1,854,363	$1,400,000	$35,245,637	$300,000
Central Parkway Connector (4/4/2)	$28,900,000	$1,410,145	$500,000	$26,789,855	$200,000
Central Parkway to Carolina Forest Boulevard (6/6/4)	$0	$0	$0	$0	
Central Parkway to U.S. 501 (6/6/4)	$65,000,000	$2,940,434	$5,710,000	$55,519,566	$800,000
Subtotal	**$215,300,000**	**$10,227,174**	**$14,480,960**	**$188,291,866**	**$2,300,000**
S.C. 544 (5-lanes - U.S. 17 to Socastee Bridge)	$7,419,500			$7,419,500	
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$30,980,500	$3,741,100	$13,093,850	$14,870,500	
TOTAL	**$545,000,000**	**$13,968,274**	**$33,574,810**	**$493,581,866**	**$4,600,000**

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Table 5
REVISED HORRY COUNTY RIDE PROJECT
CURRENT PROJECT STATUS

FACILITY	ENVIRONMENTAL	PERMITTING	PRELIMINARY DESIGN	FINAL DESIGN	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION
Conway Bypass	complete	complete	complete	underway	underway	initiated
Carolina Bays Parkway	underway	underway				
S.C. 544 (5-lanes - U.S. 17 to Socastee Bridge)	complete	complete	complete	underway	underway	
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)						

HORRY COUNTY RIDE PROJECT SCHEDULE

PROJECT NAME	1998	1999	2000	2001	2002	2003	2004
Central Parkway							
Fantasy Harbour Bridge Interchange							
Conway Perimeter Road							
U.S. 17 / 501 Interchange							
U.S. 501 (George Bishop Overpass)							
S.C. 544 (Widening Between Socastee Bridge and U.S. 501)					(Horry County/SCDOT)		
S.C. 90 Intersection Improvements							
S-31 / S-66 Intersection Improvements							
U.S. 501 (Frontage Road Between Forestbrook Road and AKW)							
U.S. 501 Carolina Forest Boulevard							
U.S. 501 Improvements							

LEGEND

- Environmental and / or Design
- Right - of - Way Aquisition
- Construction

Ride

Figure 4

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Table 6
HORRY COUNTY'S PORTION OF THE RIDE PROJECT
PROJECT COST COMPONENTS

FACILITY	ESTIMATED COST (1997)	ENVIRONMENTAL/ ENGINEERING	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION	MAINTENANCE
Central Parkway					
48th Avenue North to 29th Avenue North	$10,868,000	$501,735	$3,310,690	$7,052,575	
21st Avenue North to 10th Avenue North	$5,434,000			$5,434,000	
10th Avenue North to U.S. 501	$6,270,000	$288,420	$3,034,680	$2,946,900	
U.S. 501 to Harrelson Boulevard	$6,897,000	$450,656	$1,896,675	$4,549,669	
Subtotal	$29,469,000	$1,243,811	$10,242,045	$17,983,144	$0
Fantasy Harbour Bridge Interchange	$12,540,000			$12,540,000	
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)	$13,585,000	$709,033	$5,700,000	$7,175,968	
U.S. 17/U.S. 501 Interchange (complete)	$12,853,500	$570,831	$6,531,250	$5,751,419	
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)	$7,837,500		$1,706,043	$6,131,457	
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$23,359,500			$23,359,500	
S.C. 90 (intersection improvements between Conway Bypass and S.C. 9)	$4,702,500	$300,437.50	$1,306,250	$3,095,813	
S-31 and S-66 (intersection improvements)	$7,524,000	$540,787.50	$1,567,500	$5,415,713	
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	$42,636,000	$1,358,500.00		$41,277,500	
U.S. 501/Carolina Forest Boulevard Interchange	$10,450,000	$627,000	$418,000	$9,405,000	
U.S. 501 (acceleration/deceleration lanes)	$4,180,000	$250,800	$522,500	$3,406,700	
TOTAL	$169,137,000	$5,601,200	$27,993,588	$135,542,212	$0

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Table 7
HORRY COUNTY'S PORTION OF THE RIDE PROJECT
CURRENT PROJECT STATUS

FACILITY	ENVIRONMENTAL	PERMITTING	PRELIMINARY DESIGN	FINAL DESIGN	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION
Central Parkway			underway			
Fantasy Harbour Bridge Interchange						
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)						
U.S. 17/U.S. 501 Interchange (complete)						
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)						
S.C 544 (5-lanes - Socastee Bridge to U.S 501)						
S.C. 90 (intersection improvements between Conway Bypass and S.C. 9)						
S-31 and S-66 (intersection improvements)						
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	complete	complete	complete	underway	underway	
U.S. 501/Carolina Forest Boulevard Interchange						
U.S. 501 (acceleration/deceleration lanes)						

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Appendix A

COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)

RESOLUTION NUMBER 224-97

A RESOLUTION REAFFIRMING HORRY COUNTY COUNCIL'S SUPPORT OF BUILDING THE ROADS OUTLINED IN THE "RIDE PLAN" AS APPROVED AND ENDORSED BY ORDINANCE NUMBER 105-96, AND PLEDGING FINANCIAL SUPPORT THROUGH DEDICATION OF REVENUE DERIVED FROM A COUNTY-WIDE HOSPITALITY FEE:

WHEREAS, Horry County Council passed Ordinance Number 105-96 on October 15, 1996, to collect a Hospitality Fee to pay for road construction pursuant to the RIDE Plan; and

WHEREAS, Ordinance Number 105-96 implemented a one and one-half percent Hospitality Fee to be used to provide the county portion of funding for the RIDE Plan; and

WHEREAS, Governor Beasley and SCDOT endorsed the RIDE Plan as the preferred solution to the traffic problems of Horry County; and

WHEREAS, Horry County remains firm on its commitment to the RIDE Plan as the minimum solution to the county's transportation crisis; and

WHEREAS, State funding is being provided through the newly formed State Infrastructure Bank (SIB) allowing for a lesser percentage participation by Horry County; and

WHEREAS, the State Infrastructure Bank has indicated a desire to have a resolution from Horry County Council reaffirming its support of the roads outlined in the RIDE Plan and supporting Horry County's application to the State Infrastructure Bank.

NOW THEREFORE, BE IT RESOLVED BY THE HORRY COUNTY COUNCIL, duly assembled, that the Horry County Council reaffirms its support of the RIDE Plan as presented to and approved by Governor David Beasley in September, 1996, and supports, endorses and approves its amended application to the State Infrastructure Bank to be presented on November 24, 1997.

Dated this 18th day of November, 1997.

HORRY COUNTY COUNCIL

Chandler C. Prosser, Chairman

Ray Skidmore, Jr., District 1

John Kost, District 2

Raymond F. Brown, District 3

Chandler Brigham, District 4

Terry Chambers, District 6

James R. Frazier, District 7

Elizabeth S. Gilland, District 8

Ulysses Dewitt, District 9

Johnny Shelley, District 10

Janice Jordan, District 11

ATTEST:

Rosella H. Carroll, Clerk to Council

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Appendix B

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STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

ORDINANCE NO. 105-96

AN ORDINANCE IMPOSING A TWO AND ONE-HALF PERCENT HOSPITALITY FEE IMMEDIATELY.

WHEREAS, A plan which offered long-range solutions to this area's road problems failed to pass; and

WHEREAS, The need for road improvement continues and will in all likelihood increase in the future; and

WHEREAS, Considerable time and effort was expended by the Governor's RIDE Committee to establish a new plan and a new timetable; and

WHEREAS, All past efforts to institute a local options sales tax have failed, thus making difficult the possibility of using the largest single revenue generator available; and

WHEREAS, Current law allows local government to levy reasonable and necessary fees to provide needed infrastructure.

NOW THEREFORE, BE IT ORDAINED IN COUNCIL DULY ASSEMBLED,

SECTION 1. (A) **Establishment of Hospitality Fee.** There is established a uniform service charge, hereinafter referred to as the "hospitality fee," equal to one and one-half percent (1.5%) within the geographic confines of Horry County, with an additional hospitality fee equal to one percent (1.0%) within the unincorporated areas of Horry County only. These fees shall be imposed on:

(1) the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code applies;

(2) those paid admissions to places of amusement within the County to which the admissions tax imposed by the State of South Carolina pursuant to Section 12-21-2420, et seq. of the South Carolina Code, applies (golf fees not to begin until 7/1/97); and

(3) the gross proceeds derived from the sale of food and beverages sold in establishments which primarily have as their business purpose the sale of prepared food for immediate consumption either on or off premises; or maintain licenses for the on-premise consumption of alcohol, beer or wine.

(B) **Payment of the Hospitality Fee.** Payment of the hospitality fee shall be the liability of the consumer of the services described in Section 19-51 subsection (A). The hospitality fee shall be paid at that time of the delivery of services to which the hospitality fee applies, shall b3e collected by the provider of the services,and shall be held in trust by the provider until remitted as provided for herein.

(C) **Collection of the Hospitality Fee.** The hospitality fee imposed by this section is due and payable in monthly installments on or before the twentieth day of each month and every person liable for the fee shall on or before the twentieth day of each month make a true and correct return to the County in such form as it may prescribe and remit the fee therewith. A return is considered to be timely filed if the return is mailed and has a postmark dated on or before the date the return is required to be filed. In case of a failure to make a true and correct return or a failure to file the return, the County shall make a return upon such information as it may be able to obtain, assess the fee due thereon, and add a penalty of ten percent, whereupon the County shall mail notice to the person liable for the fee and, in the case of failure to pay the fee within ten days after the mailing of any such notice, the County shall add an additional penalty of ten percent.

(D) **Inspections and Audits.** For the purpose of enforcing the provisions of this section the County Administrator or other authorized agent of the County, is empowered to enter upon the premises of any person subject to this section and to make inspections, examinations and audits of books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hours written notice. In the event that an audit reveals that false information has been filed by the remitter, the costs of the audit shall be added to the correct amount of fees determined to be due, in addition to the penalties provided in subsection (C). The County Administrator or other authorized agent of the County may make systematic inspection of all businesses within the County, to ensure compliance with this section. Records of inspection shall not be deemed public records.

(E) **Penalties.** (1) It is a violation of this section to:

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(a) fail to collect the hospitality fee;

(b) fail to remit to the County any hospitality fee collected;

(c) fail to file a hospitality fee; return.

(d) knowingly provide false information on a hospitality fee return;

or

(e) fail to provide books and records to the County Administrator or other authorized agent of the County for the purpose of inspection, examination, or audit after twenty-four (24) hours written notice.

(2) Each day this section is violated constitutes a separate offense.

(3) Upon conviction of this section, the violator is guilty of a misdemeanor and subject to a fine or forfeiture not exceeding five hundred dollars or imprisonment not exceeding thirty days, or both.

(F) **Start-up Funds and Administration of Hospitality Fee.** The County Administrator is responsible for the implementation, collection, and enforcement of the hospitality fee and, upon mutual agreement with the County Auditor and County Treasurer, the County Administrator may provide for the implementation, collection, and enforcement of the hospitality fee through the County Auditor and County Treasurer.

(G) **Disposition of Hospitality Fee.** All revenues collected fro the hospitality fee shall be deposited in two separate funds. The funds derived from the one and one-half percent fee shall be deposited into a Road Fund which will be used to implement a comprehensive road plan adopted by the County in concert with the municipalities of the County. The money in this Fund shall be held in escrow until the said comprehensive road plan is finalized and adopted. Interest generated by this fund shall accrue to the fund. The funds derived for the one percent fee shall be deposited in the general fund of the County to offset the cost of public safety and public works services and infrastructure directly impacted by tourism. In the case of either fund, the costs of collecting

the monies may be reimbursed by the fund monies, up to a maximum of one percent (1%).

(H) **Sunset.** The imposition of the one and one-half (1.5%) percent hospitality fee for infrastructure will terminate (a) on 8/1/97 if an appropriate agreement or legislation is not in place fro the State of South Carolina to provide their share of the short term funding plan outlined by RIDE or (b) twenty years from the effective date of this ordinance. Should the one and one-half (1.5%) percent hospitality fee be terminated on 8/1/97, all funds collected will be placed in the general fund of the County and used for services directly impacted by the tourism industry (see G above).

SECTION 2. SEVERABILITY.

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

SECTION 3. CONFLICTING ORDINANCES REPEALED.

All ordinances or parts of ordinances in conflict with the provisions of this ordinances are hereby repealed.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be effective 1/1/97.

FIRST READING: August 6, 1996
SECOND READING: August 20, 1996
THIRD READING: October 15, 1996

ATTEST:
Rosella H. Carroll
Rosella H. Carroll, Clerk to Council

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HORRY COUNTY COUNCIL

A. Joseph McNutt, Jr., Chairman

Ray Skidmore, Jr., District 1

John Kost, District 2

Raymond J. Brown, District 3

Chandler Brigham, District 4

Chandler C. Prosser, District 5

Terry Chambers, District 6

James R. Frazier, District 7

Elizabeth D. Gilland, District 8

Ulysses Dewitt, District 9

Johnny Shelley, District 10

Janice Jordan. District 11

ATTEST:

Rosella H. Carroll, Clerk to Council

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INCLUDES PROPOSED REVISIONS FOR SECOND READING

STATE OF SOUTH CAROLINA)
) ORDINANCE NO. 7-97
COUNTY OF HORRY)

97 FEB 21 AM 9:52

FILED
HORRY COUNTY

R.H.G.

WHEREAS, the Horry County Council, in meeting duly assembled, enacted Ordinance No. 105-96 on October 15, 1996; and

WHEREAS, County Council deems it appropriate to clarify certain portions of that ordinance; and

WHEREAS, County Council now desires to amend said ordinance in order to provide authority to use the funds collected pursuant to the ordinance for the purpose of matching state and/or federal funds as may be determined by the Horry County Council to be appropriated.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the Horry County Council, in meeting duly assembled, does hereby amend Ordinance No. 105-96 as follows:

SECTION 1.

Section 1. (A)(2) of Ordinance Number 105-96 shall be amended by the deletion of the language contained therein and by the substitution of the following language therefor:

> Those paid admissions to places of amusement within the County to which the admissions tax imposed by the State of South Carolina pursuant to Section 12-21-2420, et seq. of the South Carolina Code, applies; and

SECTION 2.

Section 1.(A)(3) of Ordinance Number 105-96 shall be amended by the deletion of the language contained therein and by the substitution of the following language therefor:

> The gross proceeds derived from the sale of prepared food and beverages sold for immediate consumption either on or off premises; or maintain licenses for the on-premise consumption of alcohol, beer or wine.

SECTION 3.

Section 1. (A)(3)(G) "Disposition of Hospitality" of Ordinance Number 105-96 shall be further amended by the deletion of the language contained therein and by the substitution of the following language therefor:

Disposition of the Hospitality Fee. All revenues collected from the hospitality fee shall be deposited in two separate funds. The funds derived from the one and one-half percent fee shall be deposited into a Road Special Revenue Fund which will be used to implement a comprehensive road plan adopted by the County in concert with the municipalities of the County. The money in this Fund shall be held in escrow until the said comprehensive road plan is finalized and adopted. Interest generated by this Fund shall accrue to the Fund. The funds derived from the one percent fee shall be deposited in a separate Special Revenue Fund of the County to offset the cost of providing public safety and public works services and infrastructure directly impacted by tourism. In the case of either fund, the costs of collecting the monies may be reimbursed by the Fund monies, up to a maximum of one percent (1%).

EXEMPT

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SECTION 4.

Section 1.(A)(3)(H) "Sunset" of Ordinance Number 105-96 shall be further amended by the deletion of the language contained therein and by the substitution of the following language therefor:

Sunset. The imposition of the one and one-half (1.5%) percent hospitality fee for infrastructure will terminate (a) on 8/1/97 if an appropriate agreement or legislation is not in place from the State of South Carolina to provide their share of the short term funding plan outlined by RIDE or (b) twenty years from the effective date of this ordinance. Should the one and one-half (1.5%) percent hospitality fee be terminated on 8/1/97, all funds collected will be placed in the one percent (1%) Special Revenue Fund of the County and used for services directly impacted by the tourism industry (see G above).

SECTION 5. SEVERABILITY

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

SECTION 6. CONFLICTING ORDINANCES REPEALED

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. EFFECTIVE DATE.

This ordinance shall be effective upon its third reading

FIRST READING: 1-7-97 as amended
SECOND READING: 1-21-97
THIRD READING: 2-4-97

ATTEST:
Rosella H. Carroll
Rosella H. Carroll, Clerk to Council

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HORRY COUNTY COUNCIL

A. Joseph McNutt, Jr., Chairman

Ray Skidmore, Jr., District One

John Kost, District Two

Raymond J. Brown, District Three

Chandler Brigham, District Four

Chandler C. Prosser, District Five

Terry Chambers, District Six

James R. Frazier, District Seven

Elizabeth D. Gilland, District Eight

Ulysses Dewitt, District Nine

Johnny Shelley, District Ten

Janice G. Jordan, District Eleven

ATTEST:

Rosella H. Carroll, Clerk to Council

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Exhibit I

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COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)

ORDINANCE 93-16

AN ORDINANCE

AMENDING AND RESTATING ORDINANCE NO. 105-96, AS AMENDED, AND ORDINANCE NO. 111-01, AS AMENDED; AND OTHER MATTERS RELATING THERETO, THIS AMENDED AND RESTATED ORDINANCE TO BE KNOWN AS THE HOSPITALITY FEE AND LOCAL ACCOMMODATIONS FEE ORDINANCE.

FINDINGS OF FACT

The County Council of Horry County (the "County Council"), the governing body of Horry County, South Carolina (the "County"), hereby finds and determines:

WHEREAS, County Council, in meeting duly assembled, enacted Ordinance No. 105-96, on October 15, 1996, imposing a Hospitality Fee (as defined therein) in the County pursuant to the terms thereof.

WHEREAS, Ordinance No. 105-96 has been amended previously on four occasions, by Ordinance No. 7-97, Ordinance No. 76-97, Ordinance No. 80-01, and Ordinance No. 11-04 (as amended, the "Hospitality Fee Ordinance").

WHEREAS, County Council, in meeting duly assembled, enacted Ordinance No. 111-01 on February 19, 2002, imposing an accommodations fee at a rate of one-half of one percent (0.5%) throughout the unincorporated areas of the County (the "Local Accommodations Fee").

WHEREAS, the said Ordinance No. 111-01 has been amended previously on one occasion by Ordinance No. 50-04 (as amended, the "Local Accommodations Fee Ordinance").

WHEREAS, the Hospitality Fee is currently imposed at a rate of 1.5% within the bounds of the County and imposed at an additional rate of 1% within the unincorporated area of the County, on the following:

(1) the gross proceeds derived from the rental or charges for any rooms, camp ground spaces, lodgings, or sleeping accommodations furnished to transients by any motel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code applies;

(2) those paid admissions to places of amusement within the County to which the admissions tax imposed by the State of South Carolina pursuant to Section 12-21-2420, et seq. of the South Carolina Code, applies (golf fees not to begin until 7/1//97); and

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(3) the gross proceeds derived from the sale of food and beverages sold in establishments which primarily have as their business purpose the sale of prepared food for immediate consumption either on or off premises; or maintain licenses for the in-premise consumption of alcohol, beer or wine.

(4) The gross proceeds derived from rental companies engaged in the business of renting private passenger motor vehicles to a renter for a consideration within the County. The proceeds derived from the lease or rental of a private passenger motor vehicle supplied to the same person for a period of ninety (90) continuous days are not considered proceeds.

WHEREAS, a "positive majority" of the County Council has determined that in order to best ensure the health, safety and welfare of the its citizens and in order generate additional revenue to better serve the tourists visiting the County, the scope of the Hospitality Fee and the rate of the Hospitality Fee with respect to numbered paragraph (4) immediately above shall be clarified as to scope as set forth herein and increased as to rate to 2.5% within the bounds of the County and that no additional rate shall be imposed solely in the unincorporated area of the County. Such action is taken pursuant to the authority granted the County in the South Carolina Code, specifically Section 6-1-330, without limitation.

WHEREAS, the Local Accommodations Fee is currently imposed in the unincorporated area of the County at a rate of one-half of one percent (0.5%) on:

> the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code applies.

WHEREAS, the receipts of the Hospitality Fee and Local Accommodations Fee (such receipts, the "Fee Revenues") currently provide sources of funding for the purposes set forth in their respective authorizing ordinances.

WHEREAS, County Council finds that receipts from Fee Revenues are currently and shall from this day forward be used exclusively for purposes set forth at Section 6-1-530 and 6-1-730 of the Code of Laws of South Carolina 1976, as amended (the "South Carolina Code").

WHEREAS, County Council has further determined that the condition, availability, location, and capacity of existing transportation infrastructure within and without the County serving tourists, or persons who do not reside in but rather enter temporarily, for reasons of recreation or leisure, the jurisdictional boundaries of the County, present impediments to economic growth and improvement thereof would benefit the health, safety and welfare of the citizens of the County and tourists.

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WHEREAS, of the purposes outlined above, County Council finds that the current and future dedication of all or a portion of the Fee Revenues to defray the costs of designing, constructing, maintaining and operating transportation infrastructure and facilities and infrastructure serving tourists, and providing access to tourist destinations is in the best interest of the County, its citizens, and particularly its tourists.

WHEREAS, County Council finds that the Hospitality Fee and Local Accommodations Fee (each a "Fee" and together the "Fees") are uniform service charges or user fees, viz:

(1) Fee Revenues are used to benefit the payers. County Council finds that in order to purchase the goods and services on which the Hospitality Fee and Local Accommodations Fee are imposed, individuals nearly without exception must travel upon the transportation infrastructure of the County. Improved transportation infrastructure and other facilities and infrastructure benefiting tourists thus directly benefits those obtaining the subject goods and services by facilitating access to points of sale and service, attracting individuals to such points of sale, and enhancing safety. Furthermore, the County has a population of approximately 300,000 and receives approximately 18 million tourists each year, tourists who purchase the goods and services subject to the Hospitality Fee and Local Accommodations Fee and who benefit greatly from transportation infrastructure serving tourist destinations and tourism-related facilities.

(2) Fee Revenues are only used for specific purposes. Fee Revenues do not support the general operations of the County and may only be used for the purposes outlined herein.

(3) Fee Revenues do not exceed the cost of providing the improvements and services funded from Fee Revenues. Estimated annual costs for designing, constructing, maintaining, and operating transportation infrastructure providing access to tourist destinations and tourism-related facilities and infrastructure exceeds annual receipts of the Hospitality Fee currently and is reasonably anticipated to exceed annual receipts on a going forward basis.

(4) The Hospitality Fee and Local Accommodations Fee are uniformly imposed. All persons obtaining goods or services subject to the Hospitality Fee and Local Accommodations Fee pay a uniform rate in the incorporated areas of the County and pay a uniform rate in the unincorporated area of the County.

WHEREAS, the County Council finds that the Hospitality Fee and the rate thereof was authorized and adopted prior to December 31, 1996, remains in force and effect pursuant to the Hospitality Fee Ordinance and Section 6-1-330 of the South Carolina Code, and has not been repealed.

WHEREAS, the County Council finds the portions of the Hospitality Fee described at numbered paragraphs (1) and (3) describing the scope of the Hospitality Fee above and the entirety of the Local Accommodations Fee are currently imposed and authorized in a manner wholly consistent with the fees authorized at Title 6, Chapter 1, Articles 5 and 7.

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WHEREAS, to the extent the rate limitations set forth at Section 6-1-540 and Section 6-1-740 are applicable to the rate of the Hospitality Fee or Local Accommodations Fee, such rates either (i) do not exceed the rates allowed by such sections or (ii) are exempt from such rate limitation by virtue of the date of adoption of the rate level.

WHEREAS, in order to meet the needs of the County as set forth above, the County Council is now minded to amend and restate the Hospitality Fee Ordinance and the Local Accommodations Fee Ordinance to incorporate the findings and determinations above, and provide concurrent authorization, to the extent applicable, for the Hospitality Fee imposed pursuant to the Hospitality Fee Ordinance in accordance with Title 6, Chapter 1, Articles 5 and 7 of the South Carolina Code. In providing such concurrent authorization, the County is in no manner waiving, repealing, or supplanting any existing authorization for the Hospitality Fee.

WHEREAS, the County, through experience in collecting the Fees, and in response to certain legislative developments, seeks to make certain changes in the administration of the collection of the Fees in order to more efficiently and effectively serve the people of the County.

WHEREAS, the County Council has determined to hold a public hearing in connection with the enactment of this Hospitality Fee and Local Accommodations Fee Ordinance.

BE IT ORDAINED BY THE COUNTY COUNCIL OF HORRY COUNTY, SOUTH CAROLINA, AS FOLLOWS:

SECTION I. HOSPITALITY FEE

(A) Establishment and Imposition of Hospitality Fee. There is established a uniform service charge, hereinafter referred to as the "Hospitality Fee," equal to one and one-half percent (1.5%) within the geographic confines of the County, and an additional imposition equal to one percent (1.0%) within the unincorporated areas of the County only; such rates shall apply to and be imposed on:

(1) the gross proceeds derived from the rental or charges for any rooms, camp ground spaces, lodgings, or sleeping accommodations furnished to transients by any motel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code applies;

(2) those paid admissions to places of amusement within the County to which the admissions tax imposed by the State of South Carolina pursuant to Section 12-21-2420, et seq. of the South Carolina Code, applies; and

(3) the gross proceeds derived from the sale of prepared food and beverages sold for immediate consumption either on or off premises; or maintain licenses for the on-premise consumption of alcohol, beer or wine.

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(B) The Hospitality Fee shall be imposed at a rate equal to two and one-half percent (2.5%) within the geographic confines of the County solely with regard to:

(4) The gross proceeds derived from Rental Companies engaged in the business of renting Private Passenger Motor Vehicles to a renter for a consideration within The County. The proceeds derived from the lease or rental of a private passenger motor vehicle supplied to the same person for a period of ninety (90) continuous days are not considered proceeds. "Rental Company" means any individual, firm, partnership or corporation in the business of providing private passenger automobiles to the public under the terms of a rental agreement. "Private Passenger Motor Vehicle" means any private passenger motor vehicle, including passenger vans and mini-vans, that is intended primarily for the transport of persons on public roads and highways.

(C) Payment of the Hospitality Fee. Payment of the Hospitality Fee shall be the liability of the consumer of the services. The Hospitality Fee shall be paid at that time of the delivery of the services to which the Hospitality Fee applies, shall be collected by the provider of the services, and shall be held in trust by the provider until remitted as provided for herein.

(D) Disposition of Hospitality Fee. All revenues collected from the Hospitality Fee shall be deposited or allocated as follows:

(1) The funds derived from the one and one-half percent (1.5%) Hospitality Fee shall be deposited into a Road Special Revenue Fund which will be used to implement a comprehensive road plan adopted by the County in concert with the municipalities of the County. Interest generated by this Road Special Revenue Fund shall accrue to the fund.

(2) The funds derived from the one percent (1%) fee shall be specifically allocated within the County's budget to offset the cost of public safety and public works services and infrastructure directly impacted by tourism.

In the case of disposition of funds, the costs of collecting the monies may be reimbursed by the fund monies, up to a maximum of one percent (1%).

(E) Sunset. The imposition of the one and one-half (1.5%) Hospitality Fee for infrastructure will terminate on January 1, 2022.

(F) Use of Hospitality Fee Revenues. Receipts of the Hospitality Fee shall be expended only for a purpose or purposes identified below:

(1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;

(2) tourism-related cultural, recreational, or historic facilities;

(3) beach access and renourishment;

(4) highways, roads, streets, and bridges providing access to tourist destinations;

(5) advertisements and promotions related to tourism development;

(6) water and sewer infrastructure to serve tourism-related demand; or

(7) operation and maintenance of police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to the forgoing (1) through (6).

SECTION III. LOCAL ACCOMMODATIONS FEE

(A) Establishment and Imposition of a Local Accommodations Fee. There is established a uniform service charge, hereinafter referred to as the "Local Accommodations Fee," equal to one-half of one percent (0.5%) within the geographic confines of the unincorporated areas of the County.

> The Local Accommodations Fee shall be imposed on the gross proceeds derived from the rental or charges for any rooms, camp ground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code, applies.

(B) Payment of the Local Accommodations Fee. Payment of the Local Accommodations Fee shall be the liability of the transient(s) described in the aforesaid paragraph. The Local Accommodations Fee shall be paid at the time of the delivery of service to which the Local Accommodations Fee applies, shall be collected by the provider of the services, and shall be held in trust by the provider until remitted as provided for herein.

(C) Use of Local Accommodations Fee Revenues. Receipts of the Hospitality Fee shall be expended only for a purpose or purposes identified below:

(1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;

(2) tourism-related cultural, recreational, or historic facilities;

(3) beach access and renourishment, or other tourism-related lands and water access;

(4) highways, roads, streets, and bridges providing access to tourist destinations;

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(5) advertisements and promotions related to tourism development;

(6) water and sewer infrastructure to serve tourism-related demand; or

(7) operation and maintenance of police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to the forgoing (1) through (6).

SECTION IV. FEE COLLECTION AND ADMINISTRATION

(A) Collection of Fees.

(1) Requirement to Make Filing and Payment. Each person liable for any Fee shall (a) make a true and correct return to the County in such form as it may prescribe and (b) remit such Fee therewith.

(2) When Due. Any Fee imposed by this Hospitality Fee and Local Accommodations Fee Ordinance is due and payable:

i. in monthly installments on or before the twentieth (20th) day of each month, or

ii. in thirteen installments payable on or before the twentieth (20th) day following the period covered by the return on sales for the previous reporting period. This payment option requires thirteen payments in each calendar year. For those persons electing to pay in thirteen installments (every four weeks), payments for each period are due on or before the twentieth (20th) day after the conclusion of the four calendar week period for which payment is due.

The return shall be due at the same time the Fee is due and payable.

(3) Manner and Location of Payment. Fee payments shall be made by mail, in-person at facilities designated by the County Administrator, or electronically. County Council, by resolution, may establish mandatory electronic filing for certain classes of payers.

(4) Timely Filing and Payment. A return and the payment due therewith are considered to be timely if (i) the return and payment are mailed and such mailing has a postmark dated on or before the date the return is required to be filed, or (ii) the County actually receives the return and payment (a) at a physical location designated by the County Administrator, or (b) electronically in a manner selected by the County Administrator. The burden of demonstrating the timeliness of the filing and payment and presentation of a

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corroborating proof of mailing or receipt demonstrating the same is the responsibility of the person making payment.

(5) Failure to File Return. In the case of a failure to file the return, the County shall make a return upon such information as it may be able to obtain, assess the Fee due thereon, and assess a late filing penalty (the "Failure to File Penalty") upon the entire Fee then due, whereupon the County shall mail such notice to the person liable for the Fee. Such payment shall be due within ten days of the postmark of such return.

The Failure to File Penalty shall be calculated as

(A x B) x C = the Failure to File Penalty

where "A" represents the amount of the entire then due Fee, "B" represents the daily penalty in percentage terms calculated on the basis of a 10% per month penalty assuming a 30-day month (0.333%), and "C" represents the number of calendar days from the date the filing was due to the date of the filing and payment of the Failure to File Penalty. The amount of the Failure to File Penalty for any period shall not exceed 20% of the Fee due for that period.

(6) Failure to Timely File Return. In the case of late filing of the return, the County shall assess a late filing penalty (the "Late Filing Penalty") upon the entire Fee then due.

The Late Filing Penalty shall be calculated as

(D x E) x F = the Late Filing Penalty

where "D" represents the amount of the entire then due Fee, "E" represents the daily penalty in percentage terms calculated on the basis of a 10% per month penalty assuming a 30-day month (0.333%), and "F" represents the number of calendar days from the date the filing was due to the date of the payment of the Fee, the Late Filing Penalty, and any Late Payment Penalty. The amount of the Late Filing Penalty for any period shall not exceed 20% of the Fee due for that period.

(7) Failure to Pay. In the case of failure to pay the entirety of any Fee when due, the County shall add a late payment penalty (the "Late Payment Penalty").

The Late Payment Penalty shall be calculated as:

(X x Y) x Z = the Late Payment Penalty

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where "X" represents the amount of the entire Fee due for the period in question without regard to any partial payment, "Y" represents the daily penalty in percentage terms calculated on the basis of a 10% per month penalty assuming a 30-day month (0.333%), and "Z" represents the number of calendar days from the date the payment was due to the date of the payment of such Fee, and the Late Payment Penalty. There shall be no limit on the amount of the Late Payment Penalty.

For a given period, a person may be assessed a Failure to File Penalty, or a Late Filing Penalty, but shall not be assessed both.

(B) Inspections and Audit. For the purpose of enforcing the provisions of this Hospitality Fee and Local Accommodations Fee Ordinance, the County Administrator or other authorized agent of the County, is empowered to enter upon the premises of any person subject to this section and to make inspections, examinations and audits of books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hours written notice. In the event that an audit reveals that false information has been filed by the remitter, the costs of the audit shall be added to the correct amount of any Fees determined to be due, in addition to the penalties provided in subsection (A) above. The County Administrator or other authorized agent of the County may make systematic inspection of all businesses within the County, to ensure compliance with this section. Records of inspection shall not be deemed public records.

(C) Violations.

(1) It is a violation of this section to:

(a) fail to collect any Fee;
(b) fail to remit to the County any Fee collected;
(c) fail to file any Fee return;
(d) knowingly provide false information on any Fee return;
(e) fail to provide books and records to the County Administrator or other authorized agent of the County for the purpose of in inspection, examination, or audit after twenty-four (24) hours written notice.

(2) Each day this section is violated constitutes a separate offence.

(3) Upon conviction of this section, the violator is guilty of a misdemeanor and subject to a fine or forfeiture not exceeding five hundred dollars or imprisonment for not exceeding thirty days, or both.

(D) Administration of Fees. The County Administrator is responsible for the implementation, collection, and enforcement of the Fees through any legally available means as may be available to the County, including, without limitation, the Setoff Debt Collection Act,

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codified at Title 12, Chapter 56 of the South Carolina Code and Governmental Enterprise Accounts Receivable (GEAR), codified at Section 12-4-580 of the South Carolina Code.

(E) Administrative Fee. The costs of collecting the monies may be reimbursed by the fund monies, up to a maximum of one (1%) percent.

SECTION V. FAIRNESS IN LODGING ACT

(A) Findings and Authorization. In order to ensure fair competition in providing accommodations to transients and Tourists, the County finds that additional enforcement authority would be helpful in enforcing the Hospitality Fee and Local Accommodations Fee to support the health, safety and welfare of its residents and Tourists. The County is authorized to implement such authority in light of the concurrent authority of Title 6, Chapter 1, Article 5 provided to portions of the Hospitality Fee by this ordinance, and the plenary authority granted by Title 6, Chapter 1, Article 5 in the Local Hospitality Fee Ordinance, and confirmed hereby.

(B) Implementation. The County hereby implements the provisions of the Fairness in Lodging Act, codified at Title 6, Chapter 1, Article 8 of the South Carolina Code. The County Administrator is hereby directed to provide a certified copy of this Hospitality Fee and Local Accommodations Fee Ordinance to the Director of the South Carolina Department of Revenue (the "Department of Revenue") pursuant to Section 6-1-815(A) of the South Carolina Code.

(C) Data Sharing. The County Administrator is hereby directed to take such action as he finds necessary and desirable to collaborate with the Department of Revenue to use returns and copies of returns and other documents filed with or otherwise available to either the Department of Revenue or the County so that each may share data helpful to both the Department of Revenue and the County in determining possible instances of noncompliance.

(D) Notices in Annual Property Tax Notices. There shall be included or caused to be included notices in annual property tax notices for parcels of residential real property assessed for property tax purposes pursuant to Section 12-43-220(e) of the South Carolina Code in such form as the County Administrator finds necessary and desirable. Such notices must provide (1) details of fees imposed pursuant to Title 6, Chapter 1, Article 5 of the South Carolina Code and state sales tax on accommodations required to be paid by persons renting residential real property to tourists in the County and (2) the intention of the County to vigorously to enforce these requirements. Details must include specific information on obtaining additional information with respect to these requirements and the names, addresses, and telephone numbers of the County officials designated by the County Administrator able to answer questions, provide forms, and assist in compliance.

(E) Civil Penalties. In addition to, and separate and apart from, other penalties and interest imposed by this ordinance for failure to comply with the portion of the Hospitality Fee concurrently authorized by Title 6, Chapter 1, Article 5 and the Local Accommodations Fee the County hereby imposes, with respect to a single rental property, a one-time civil penalty for noncompliance for failure to collect and remit the portion of the Hospitality Fee concurrently authorized by Title 6, Chapter 1, Article 5 and the Local Accommodations Fee of not less than five hundred dollars nor more than two thousand dollars for each seven days the property was rented. This additional penalty may not be imposed unless the owner has received the notice provided pursuant to Section V(D) above. For purposes of enforcement and collection, this

penalty is deemed property tax on the rental property pursuant to Section 6-1-820(C), and enforceable in the same manner and to the same extent as County property taxes.

SECTION V. SEVERABILITY

If any Section, Subsection, or Clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining Sections, Subsections and Clauses shall not be affected thereby.

SECTION VI. CONFLICTING ORDINANCES REPEALED

If any Section, Subsection, or Clause of this ordinance shall conflict with any Section, Subsection or Clause of a preceding ordinance of the County, then the preceding Section, Subsection or Clause is hereby repealed and no longer in effect.

SECTION VII. CONCURRENT AUTHORIZATION

The Hospitality Fee Ordinance is hereby amended to add the supplemental and concurrent authorization of Title 6, Chapter 1, Articles 5 and 7, to the Hospitality Fee to the extent applicable. Under no circumstances shall the addition of such concurrent authorization be construed as the imposition of a new fee or tax, such authorization is entirely supplementary and concurrent in nature.

SECTION VIII. EFFECTIVE DATE

This Hospitality Fee and Local Accommodations Fee Ordinance shall become effective immediately upon approval at Third Reading.

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AND IT IS SO ORDAINED, ENACTED AND ORDERED.

Dated this _____ day of _____, 2016.

HORRY COUNTY COUNCIL

_____

Mark Lazarus, Chairman

Harold G. Worley, District 1
Bill Howard, District 2
Jimmy Washington, District 3
Gary Loftus, District 4
Tyler Servant, District 5
Cam Crawford, District 6
Harold Phillips, District 7
Johnny Vaught, District 8
W. Paul Prince, District 9
Jody Prince, District 10
Al Allen, District 11

Attest:

_____
Patricia S. Hartley, Clerk to Council

First Reading: November 1, 2016
Second Reading:
Public Hearing:
Third Reading:

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Exhibit J

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COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)

ORDINANCE 32-17

AN ORDINANCE

AMENDING ORDINANCE NO. 93-16 TO REPEAL THE SUNSET PROVISION APPLICABLE TO THE 1.5% HOSPITALITY FEE, AND OTHER MATTERS RELATED THERETO.

FINDINGS OF FACT

The County Council of Horry County (the "County Council"), the governing body of Horry County, South Carolina (the "County"), hereby finds and determines:

WHEREAS, County Council, in meeting duly assembled, enacted Ordinance No. 93-16, on December 6, 2016, and amended and restated its Hospitality Fee Ordinance and its Local Accommodations Fee Ordinance as a single Hospitality and Local Accommodations Fee Ordinance in order to provide for certain modernizations and to avail the County of certain statutory authorizations related to the administration, collection and enforcement of such fees.

WHEREAS, Section I(E) of such Hospitality and Local Accommodations Fee Ordinance provides that the imposition of the one and one-half percent (1.5%) Hospitality Fee (the "1.5% Hospitality Fee") for infrastructure will terminate on January 1, 2022.

WHEREAS, County Council, upon advice received and after due consideration has determined that the sunset of the 1.5% Hospitality Fee does not serve the interests of the County, its residents, or visiting tourists and that the County faces substantial infrastructure challenges in the coming years that are eligible for funding pursuant to the terms of the Hospitality and Local Accommodations Fee Ordinance and that it is in the bests interests of the County, its citizens, and its visiting tourists, to provide for the continued imposition of the 1.5% Hospitality Fee beyond January 1, 2022, in order to meet such challenges.

BE IT ORDAINED BY THE COUNTY COUNCIL OF HORRY COUNTY, SOUTH CAROLINA, AS FOLLOWS:

SECTION I. CONTINUATION OF 1.5% HOSPITALITY FEE; REMOVAL OF SUNSET

The sunset provision contained at Section I(E) of the Hospitality and Local Accommodations Fee Ordinance providing for the termination of the 1.5% Hospitality Fee on January 1, 2022, and shown below:

> (E) Sunset. The imposition of the one and one-half (1.5%) Hospitality Fee for infrastructure will terminate on January 1, 2022.

is hereby repealed and of no further effect. Such 1.5% Hospitality Fee shall continue indefinitely in the absence of further action by County Council pursuant to ordinance.

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SECTION II. SEVERABILITY

If any Section, Subsection, or Clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining Sections, Subsections and Clauses shall not be affected thereby.

SECTION III. CONFLICTING ORDINANCES REPEALED

If any Section, Subsection, or Clause of this ordinance shall conflict with any Section, Subsection or Clause of a preceding ordinance of the County, then the preceding Section, Subsection or Clause is hereby repealed and no longer in effect.

SECTION VIII. EFFECTIVE DATE

This Hospitality Fee and Local Accommodations Fee Ordinance shall become effective immediately upon approval at Third Reading.

AND IT IS SO ORDAINED, ENACTED AND ORDERED this _____ day of _____, 2017.

HORRY COUNTY COUNCIL

_____

Mark Lazarus, Chairman

Harold G. Worley, District 1
Bill Howard, District 2
Dennis DiSabato, District 3
Gary Loftus, District 4
Tyler Servant, District 5
Cam Crawford, District 6
Harold Phillips, District 7
Johnny Vaught, District 8
W. Paul Prince, District 9
Danny Hardee, District 10
Al Allen, District 11

Attest:

_____
Patricia S. Hartley, Clerk to Council

First Reading: April 4, 2017
Second Reading:
Third Reading:

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Exhibit K

Sec. 19-6. - Hospitality fee.

(a) *Establishment and imposition of hospitality fee.* There is established a uniform service charge, hereinafter referred to as the "hospitality fee," equal to one and one-half (1.5) percent within the geographic confines of the county, and an additional imposition equal to one (1) percent within the unincorporated areas of the county only; such rates shall apply to and be imposed on:

(1) The gross proceeds derived from the rental or charges for any rooms, camp ground spaces, lodgings, or sleeping accommodations furnished to transients by any motel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the county to which the sales tax imposed by the State of South Carolina pursuant to S.C. Code § 12-36-920 applies;

(2) Those paid admissions to places of amusement within the county to which the admissions tax imposed by the State of South Carolina pursuant to S.C. Code § 12-21-2420 et seq. applies; and

(3) The gross proceeds derived from the sale of prepared food and beverages sold for immediate consumption either on or off premises; or maintain licenses for the on-premise consumption of alcohol, beer or wine.

The hospitality fee shall be imposed at a rate equal to two and one-half (2.5) percent within the geographic confines of the county solely with regard to:

(1) The gross proceeds derived from rental companies engaged in the business of renting private passenger motor vehicles to a renter for a consideration within the county. The proceeds derived from the lease or rental of a private passenger motor vehicle supplied to the same person for a period of ninety (90) continuous days are not considered proceeds. "Rental company" means any individual, firm, partnership or corporation in the business of providing private passenger automobiles to the public under the terms of a rental agreement. "Private passenger motor vehicle" means any private passenger motor vehicle, including passenger vans and mini-vans, that is intended primarily for the transport of persons on public roads and highways.

(b) *Payment of the hospitality fee.* Payment of the hospitality fee shall be the liability of the consumer of the services. The hospitality fee shall be paid at that time of the delivery of the services to which the hospitality fee applies, shall be collected by the provider of the services, and shall be held in trust by the provider until remitted as provided for herein.

(c) *Collection of fees.*

(1) *Requirement to make filing and payment.* Each person liable for any fee shall (a) make a true and correct return to the county in such form as it may prescribe and (b) remit

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such fee therewith.

(2) *When due.* Any hospitality fee imposed herein is due and payable:

a. In monthly installments on or before the twentieth day of each month; or

b. In thirteen (13) installments payable on or before the twentieth day following the period covered by the return on sales for the previous reporting period. This payment option requires thirteen (13) payments in each calendar year. For those persons electing to pay in thirteen installments (every four (4) weeks), payments for each period are due on or before the twentieth day after the conclusion of the four-calendar-week period for which payment is due.

The return shall be due at the same time the fee is due and payable.

c. When the twentieth day is a Saturday, Sunday or other day, the county is not open for regular business, the fee is due on the following day the county is open for regular business.

(3) *Manner and location of payment*. Fee payments shall be made by mail, in-person at facilities designated by the county administrator, or electronically. County council, by resolution, may establish mandatory electronic filing for certain classes of payers.

(4) *Timely filing and payment*. A return and the payment due therewith are considered to be timely if (i) the return and payment are mailed and such mailing has a postmark dated on or before the date the return is required to be filed, or (ii) the county actually receives the return and payment (a) at a physical location designated by the county administrator, or (b) electronically in a manner selected by the county administrator. The burden of demonstrating the timeliness of the filing and payment and presentation of a corroborating proof of mailing or receipt demonstrating the same is the responsibility of the person making payment.

(5) *Failure to file return.* In the case of a failure to file the return, the county shall make a return upon such information as it may be able to obtain, assess the fee due thereon, and assess a late filing penalty (the "failure to file penalty") upon the entire fee then due, whereupon the county shall mail such notice to the person liable for the fee. Such payment shall be due within ten (10) days of the postmark of such return.

The failure to file penalty shall be calculated as:

(A x B) x C = the Failure to File Penalty

Where "A" represents the amount of the entire then due fee, "B" represents the daily penalty in percentage terms calculated on the basis of a ten (10) percent per month penalty assuming a thirty-day month (0.333%), and "C" represents the number of

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calendar days from the date the filing was due to the date of the filing and payment of the failure to file penalty. The amount of the failure to file penalty for any period shall not exceed twenty (20) percent of the fee due for that period.

(6) *Failure to timely file return.* In the case of late filing of the return, the county shall assess a late filing penalty (the "late filing penalty") upon the entire fee then due.

The late filing penalty shall be calculated as:

(D x E) x F = the Late Filing Penalty

Where "D" represents the amount of the entire then due fee, "E" represents the daily penalty in percentage terms calculated on the basis of a ten (10) percent per month penalty assuming a thirty-day month (0.333%), and "F" represents the number of calendar days from the date the filing was due to the date of the payment of the fee, the late filing penalty, and any late payment penalty. The amount of the late filing penalty for any period shall not exceed twenty (20) percent of the fee due for that period.

(7) *Failure to pay.* In the case of failure to pay the entirety of any fee when due, the county shall add a late payment penalty (the "late payment penalty").

The late payment penalty shall be calculated as:

(X Y) x Z = the Late Payment Penalty

Where "X" represents the amount of the entire fee due for the period in question less any accepted partial payment, "Y" represents the daily penalty in percentage terms calculated on the basis of a ten (10) percent per month penalty assuming a thirty-day month (0.333%), and "Z" represents the number of calendar days from the date the payment was due to the date of the payment of such fee, and the late payment penalty. There shall be no limit on the amount of the late payment penalty unless fees found to be due under an audit. The failure to pay penalty on fees found to be due under audit shall not exceed twenty-five (25) percent if paid within ten (10) days of the county's assessment, then the failure to pay penalty is not capped on the unpaid fee from the 11th day until the taxes are paid. An underpayment amount created by filing an amended return is subject to the failure to pay penalty for the underpayment amount.

(d) *Inspections and audit.* For the purpose of enforcing the provisions of this hospitality fee and local accommodations fee ordinance, the county administrator or other authorized agent of the county, is empowered to enter upon the premises of any person subject to this section and to make inspections, examinations and audits of books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hours' written notice. In the event that an audit reveals that false information has been filed by the remitter, the costs of the audit

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shall be added to the correct amount of any fees determined to be due, in addition to the penalties provided in subsection (c) above. The county administrator or other authorized agent of the county may make systematic inspection of all businesses within the county, to ensure compliance with this section. Records of inspection shall not be deemed public records.

(e) *Violations.*

(1) It is a violation of this section to:

a. Fail to collect any fee;

b. Fail to remit to the county any fee collected;

c. Fail to file any fee return;

d. Knowingly provide false information on any fee return;

e. Fail to provide books and records to the county administrator or other authorized agent of the county for the purpose of in inspection, examination, or audit after twenty-four (24) hours' written notice.

(2) Each day this section is violated constitutes a separate offense.

(3) Upon conviction of this section, the violator is guilty of a misdemeanor and subject to a fine or forfeiture not exceeding five hundred dollars ($500.00) or imprisonment for not exceeding thirty (30) days, or both.

(f) *Administration of fees.* The county administrator is responsible for the implementation, collection, and enforcement of the fees through any legally available means as may be available to the county, including, without limitation, the Setoff Debt Collection Act, codified at Title 12, Chapter 56 of the South Carolina Code and Governmental Enterprise Accounts Receivable (GEAR), codified at S.C. Code § 12-4-580.

(g) *Administrative fee.* The costs of collecting the monies may be reimbursed by the fund monies, up to a maximum of one (1) percent.

(h) *Disposition of hospitality fee* . All revenues collected from the hospitality fee shall be deposited or allocated as follows:

(1) The funds derived from the one and one-half (1.5) percent hospitality fee shall be deposited into a road special revenue fund which will be used to implement a comprehensive road plan adopted by the county in concert with the municipalities of the county. Interest generated by this road special revenue fund shall accrue to the fund.

(2) The funds derived from the one (1) percent fee shall be specifically allocated within the county's budget to offset the cost of public safety and public works services and infrastructure directly impacted by tourism.

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In the case of disposition of funds, the costs of collecting the monies may be reimbursed by the fund monies, up to a maximum of one (1) percent.

(i) *Penalty waiver.*

(1) A penalty may be waived by the county administrator or his designee if the delay or failure to file or pay was caused by reliance on erroneous written or oral advice given by a county employee to the licensee or fee remitter, if accurate and complete facts were given to the employee, there is no change in law, and the licensee or fee remitter provides supporting documentation, such as a copy of the licensee or fee remitter's question to the employee and the advice provided by the employee. A penalty will not be waived if the advice was oral, unless the employee verifies that all the facts were provided and that he gave the advice.

(2) The county administrator or his designee may waive a penalty that is de minimis in nature.

(j) *Use of hospitality fee revenues* . Receipts of the hospitality fee shall be expended only for a purpose or purposes identified below:

(1) Tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;

(2) Tourism-related cultural, recreational, or historic facilities;

(3) Beach access and renourishment;

(4) Highways, roads, streets, and bridges providing access to tourist destinations;

(5) Advertisements and promotions related to tourism development;

(6) Water and sewer infrastructure to serve tourism-related demand; or

(7) Operation and maintenance of police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to the forgoing (1) through (6).

(k) *Amnesty period.*

(1) In order to encourage the voluntary disclosure and payment of fees owed to the county, the county council finds it desirable to allow the county to designate an amnesty period which has a beginning and ending date from time to time as determined by a resolution of county council. During the amnesty period, the county shall waive the penalties and interest or portion of them at its discretion imposed pursuant to Chapter 12.5—Licenses and Business Regulations and 19.6—Hospitality Fee for a licensee or fee remitter who voluntarily files delinquent returns and pays all fees owed. If the county establishes an amnesty period pursuant to this section, it must adopt a resolution of the amnesty period at least sixty (60) days before the commencement of the amnesty period.

(2) The county shall grant amnesty to a licensee or fee remitter who files a request for an

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amnesty form and:

a. Voluntarily files a current license or fee return and pays in full all fees due;

b. Voluntarily files an amended license or fee return to correct an incorrect or insufficient original return and pays all fees due; or

c. Voluntarily pays in full all previously assessed fee liabilities due within an extended amnesty period which begins at the close of the amnesty period and runs for a period of time as determined by the county. The administrator or his designee may set up installment agreements as long as all fees are paid within this period. An installment agreement must be agreed upon before the close of the amnesty period established.

(3) The county shall not waive penalties and interest attributable to any one filing period if the licensee or fee remitter has outstanding liabilities for other periods.

(4) A licensee or fee remitter that is currently under audit by the county is not eligible for amnesty for those periods being audited.

(5) The county may review all cases in which amnesty has been granted and may on the basis of mutual mistake of fact, fraud, or misrepresentation rescind the grant of amnesty. A licensee or fee remitter who files false or fraudulent returns or attempts in any manner to defeat or evade a fee under the amnesty program is subject to applicable civil penalties, interest, and criminal prosecution.

(Ord. No. 105-96, § 1, 10-15-96; Ord. No. 7-97, §§ 1—4, 2-4-97; Ord. No. 76-97, §§ 1, 2, 8-5-97; Ord. No. 80-01, § 1, 6-19-01; Ord. No. 93-16, §§ I, IV, 12-6-16; Ord. No. 24-18, §§ 1—3, 5, 4-3-18)

Editor's note— Ord. No. 105-96, adopted Oct. 15, 1996, did not specifically amend the Code; hence, codification of § 1 of said ordinance as § 19-6 was at the discretion of the editor.

Cross reference— Roads and bridges, Ch. 16.

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Exhibit L

ELECTRONICALLY FILED - 2019 Mar 20 4:15 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)

RESOLUTION R-82-18

A RESOLUTION DEDICATING $30,000,000 OF THE HOSPITALITY FEE ANNUALLY TO CONSTRUCT THE HORRY COUNTY SECTION OF I-73.

WHEREAS, in 1996, Horry County Council established a 1.5% hospitality fee on prepared food, admissions, and rentals in the entirety of Horry County for the purpose of implementing a comprehensive road management plan as codified in Section 19-6 of the Horry County Code of Ordinances; and

WHEREAS, the 1.5% hospitality fee was scheduled to lapse upon the repayment of all outstanding loans due to the State Transportation Infrastructure Bank; and

WHEREAS, Horry County Council passed Ordinance 93-16 and Ordinance 32-17 to modernize the administration of the 1.5% hospitality fee and to extend its imposition following the repayment of loans due to the State Transportation Infrastructure Bank; and

WHEREAS, it is anticipated all funds necessary to repay the outstanding State Transportation Infrastructure Bank loans will be on deposit in the State Treasurer's Office by the end of Fiscal Year 2019; and

WHEREAS, upon repayment of the outstanding State Transportation Infrastructure Bank loans, Horry County Council seeks to dedicate the 1.5% hospitality fee for the continued development of major road projects within Horry County consistent with Section 19-6(h) of the Horry County Code of Ordinances; and

WHEREAS, Horry County Council seeks the development of interstate connections to the Grand Strand and the construction of I-73. I-73 is anticipated to provide significant economic benefit, as well as a faster evacuation route in the event of a catastrophic hurricane affecting the Myrtle Beach area; and

WHEREAS, Horry County Council seeks to dedicate a portion of the 1.5% hospitality fee to facilitate the construction of the Horry County portion of I-73.

NOW, THEREFORE, BE IT RESOLVED, that the Horry County Council dedicates $30,000,000 annually of the 1.5% Hospitality Fee to construct the Horry County segments of I-73.

AND IT IS SO RESOLVED this ___ day of _____, 2018.

HORRY COUNTY COUNCIL

_____
Mark Lazarus, Chairman

Harold G. Worley, District 1
Bill Howard, District 2
Dennis DiSabato, District 3
Gary Loftus, District 4
Tyler Servant, District 5
Cam Crawford, District 6
Harold Phillips, District 7
Johnny Vaught, District 8
W. Paul Prince, District 9
Danny Hardee, District 10
Al Allen, District 11

Attest:

_____
Patricia S. Hartley, Clerk to Council

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Exhibit M

ELECTRONICALLY FILED - 2019 Mar 20 4:15 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)

RESOLUTION R-84-18

A RESOLUTION DIRECTING STAFF TO CREATE A PLAN FOR PUBLIC SAFETY AND ROADS IN THE FY 2020 BUDGET USING UNCOMMITTED 1.5% HOSPITALITY FEE REVENUE.

WHEREAS, in 1996, Horry County Council established a 1.5% hospitality fee on prepared food, admissions, and rentals in the entirety of Horry County for the purpose of implementing a comprehensive road management plan as codified in Section 19-6 of the Horry County Code of Ordinances; and

WHEREAS, the 1.5% hospitality fee was scheduled to lapse upon the repayment of all outstanding loans due to the State Transportation Infrastructure Bank; and

WHEREAS, Horry County Council passed Ordinance 93-16 and Ordinance 32-17 to modernize the administration of the 1.5% hospitality fee and to extend its imposition following the repayment of loans due to the State Transportation Infrastructure Bank; and

WHEREAS, it is anticipated all funds necessary to repay the outstanding State Transportation Infrastructure Bank loans will be on deposit in the State Treasurer's Office by the end of Fiscal Year 2019; and

WHEREAS, Horry County Council intends to dedicate a portion of the 1.5% hospitality fee to facilitate the construction of the Horry County portion of I-73; and

WHEREAS, the Hospitality Fee can be used on other tourism-related purposes besides roads including, but not limited to, civic centers and coliseums, tourism-relate parks and cultural facilities, beach renourishment, tourism promotion, and tourism-related public safety costs; and

WHEREAS, staff has calculated the unrecovered cost of public safety from tourism to be approximately $7,800,000; and

WHEREAS, County Council seeks to dedicate a portion of the 1.5% hospitality fee for tourism-related hospitality costs beyond road construction.

NOW, THEREFORE, BE IT RESOLVED, directs staff to draft an ordinance amending Section 19-6(h) of the Horry County Code of Ordinances to allow the 1.5% hospitality fee for all eligible uses under state law. In addition, the County Administrator shall include a proposal in the FY 2020 budget a plan to utilize the uncommitted balance of the 1.5% hospitality fee for eligible tourism-related public safety expenditures and additional road projects that lead to tourist destinations.

AND IT IS SO RESOLVED this ___ day of _____, 2018.

HORRY COUNTY COUNCIL

_____
Mark Lazarus, Chairman

Harold G. Worley, District 1
Bill Howard, District 2
Dennis DiSabato, District 3
Gary Loftus, District 4
Tyler Servant., District 5
Cam Crawford, District 6
Harold Phillips, District 7
Johnny Vaught, District 8
W. Paul Prince, District 9
Danny Hardee, District 10
Al Allen, District 11

Attest:

_____
Patricia S. Hartley, Clerk to Council

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Exhibit N

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MINUTES
HORRY COUNTY COUNCIL
Special Council Meeting and Workshop
On Budget-Related Items
County Council Chambers
July 24, 2018
2:00 p.m.

MEMBERS PRESENT: Mark Lazarus, Chairman; Tyler Servant; Bill Howard; Gary Loftus; Paul Prince; Dennis DiSabato; Danny Hardee; Johnny Vaught; Al Allen; Harold Worley; Harold Phillips; and Cam Crawford.

MEMBERS ABSENT:

OTHERS PRESENT: Pat Hartley; Chris Eldridge; Steve Gosnell; Joe Huffman; Arrigo Carotti; Barry Spivey; Kelly Moore; Justin Powell; and David Schwerd.

In accordance with the FOIA, notices of the meeting were provided to the press stating the time, date, and place of the meeting.

CALL TO ORDER: Chairman Lazarus called the meeting to order at approximately 2:00 p.m.

INVOCATION: Mr. Loftus gave the invocation.

PLEDGE: Mr. Servant led in the pledge.

Chairman Lazarus said that they had several items of business. Council had voted to extend the 1.5% hospitality fee tax that was collected on prepared meals, accommodations, and admissions. This money was used originally for the original Ride I program that built SC-31, SC-22, and some other various roads. Council, through three readings, passed to extend that into perpetuity. The reasoning behind it was specifically for road projects. The ordinance was specific and that was how it read. They would have discussion of possible other uses within the hospitality law that potentially could be used. Staff would report on the justification within the law that had to be used within hospitality reasons considering where and how those monies were derived.

APPROVAL OF AGENDA CONTENTS: Mr. Howard moved to approve, seconded by Mr. Loftus. The motion was unanimously passed.

Chairman Lazarus said Mr. Powell would be giving an extensive overview of what the 1.5% tax was, how it could be used, and then they would move on to the prepared resolutions. This was one of the reason he specifically asked for this to be in a workshop and not in a Council meeting to where it wouldn't be rushed through. He wanted to be very specific and for them to be able to hear all of the facts laid out on the table by staff.

Staff Presentation on the Use of 1.5% Hospitality Tax (Justin Powell):

Mr. Powell said that when they were talking about 1.5% it was important to note that there were actually four different revenue streams that constitute what he considered tourism taxes and fees that the County used in its operations. Those were the state accommodations tax, the local accommodations tax, and then the two hospitality fees, 1% imposed on the unincorporated areas and a 1.5% imposed on the entirety of the County, including the municipalities. It was important to note that they operated within a framework that had been set by the General Assembly that said that those funds were generally created and derived from the tourists and the benefit went back to the tourists. There were a lot of restrictions on how they used the funds that were narrower than they would normally do on a property tax or other source of revenue. He wanted to cover, just for context, because he thought it was important to see the whole picture of the other streams.

The first and oldest one was the state accommodations tax. It was imposed in 1984 and was a state tax that was imposed at the state level, 2% on all transient accommodations. It was basically collected by the Department of Revenue. It was subject to the review of the Tourism Expenditure Review Committee which was a state body that would deem whether or not a city or a county had spent it appropriately. There were a variety of collections. Once they collected it, they deducted revenues for the Department of Revenue for their collection expense. They also did what he called the Robin Hood provision. We

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were a donor County relative to other places and it states that every small city, all 270 cities and all 46 counties, had at least one minimum distribution of funds. The law was pretty explicative on how it got spent. The first $25,000 goes to the general fund. After that point the next 5% goes to the general fund. 30% goes to the designated marketing organizations. They did an RFP process and the current contract was being held by the Myrtle Beach Area Chamber of Commerce to do marketing for the County. The remainder 65%, which was subject to the review and recommendation of the accommodations tax committee, was restricted to tourism related expenditures. He presented a list from state law. In general it was for advertising and promotion, construction and maintenance of tourist related facilities, some public safety costs that were attributable to the shuttles, and beachfront. We basically spend the bulk of that 65% of money on maintaining and securing the beaches. The bulk of the money was going towards the police patrol in Garden City at the campgrounds, the Arcadian Shores area, and it also went towards the maintenance of the beachfront. They put a significant amount of the money towards managing the biker events. It was very much restricted and limited to clear tourist related expenditures.

The local accommodations tax was .5% tax imposed in 2002 by County Council. It was collected locally by the revenue office and its uses were similar but slightly different than the state accommodations tax list but was primarily tourism related buildings, tourism related parks and historic facilities, beaches, highways leading to tourist destinations, adverting and promotion, and operations and maintenance related to police, fire, EMS, and emergency management. It was $1.3 million per year. The County put about $1 million into it for beach renourishment at Arcadian Shores and the Garden City area to match state and federal funding and basically accumulated that money. They used $300,000 of it for the recovery of costs of public safety already related to police and EMS services in the unincorporated area related to tourism.

He thought the one they were most interested in discussing that day was the hospitality fee. The hospitality fee was enacted in 1996 by County Council. It was collected locally and was collected on all prepared meals, transient rentals, and admissions. The County's hospitality fee ordinance went into effect before the state law was passed for hospitality and accommodations taxes. As such, we were able to grandfather in both the rate, which was in excess of what state law required and there was a specific grandfather provision as well as have a higher base of items that can be subject to this fee. There were two separate rates collected. A 1.5% that was imposed countywide and to all cities and all areas of the county. In addition, the County also imposed a 1% fee on the unincorporated areas for a total rate of 2.5%. Most of the municipalities, but not all, charge their own 1% so in most places within the County the total rate was 2.5%.

In the past two years Council had made two substantive changes to the hospitality fee ordinance. In 2016 there was some modernization for current administration. They changed the financial system that required them to look at changing how they collected and administered those fees. They also conformed it to the eligible uses in state law that would allow them to borrow against it if they so desired in the future. In 2017 they enacted Ordinance 32-17 which removed the sunset provision. Previously the tax or fee was supposed to lapse when the loans were done for Ride I. In Ordinance 93-16 they conformed the use of the hospitality fee to those that were state law. It was very similar to the local list allowed for the local accommodations tax, tourism related buildings, tourism related parks and historical facilities, beach accesses, highways, roads, advertising promotion, operations, maintenance, police, fire, and EMS/EMD services. They would see that the state law had been written very much that the uses be restricted to those things that were related to tourism.

Council had put on two additional restrictions on the use of these fees. Under the 1.5% hospitality fee imposed countywide those shall be deposited into a road special revenue fund which would be used to implement a comprehensive road plan adopted by the County. Currently, on the books was a restriction that the 1.5% that was being discussed that day only be used for road projects. The 1% accommodations hospitality fee in the unincorporated area shall be used to offset the cost of public safety, public works, and other infrastructure.

The 1.5% countywide hospitality fee was generating just over $41 million per year. There was an allocation of the administrative costs that was put into the general fund for the cost of collection. The rest of that money was basically sent to Columbia to repay the loans that the County took out in the late 1990s and early 2000 for what was known as Ride I today. Those projects built Highways 22 and 31, and the widening of Highway 544 among other major road projects done. They were originally anticipating that they would have those loans paid off in FY2022. Currently based on a better than anticipated collections from when those loans were entered into, they anticipated that some time by the end of this fiscal year they would have enough funds on deposit to pay all remaining principal and interest payments to pay those loans in full. That meant that they would anticipate having to go to the State Infrastructure Bank Board and request a release from our loan obligations as a result of that. However, that would take some time and we didn't have all the money on deposit yet.

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On the 1% hospitality fee which was imposed only on the unincorporated area, they would see the bulk of the money was going to public safety currently. Beach patrol, cleanup to supplement what they were already incurring on the state accommodations tax and then about $7.2 million on public safety. The finance department does a calculation that would allocate the cost of our responses to tourist related expenses and they had allocated based on that.

The question had been posed asking if they could spend the 1.5% on public safety. Yes, but there were several caveats that went along with it. The first was that they would have to repeal the existing ordinance on the books that said that this money shall be dedicated to road projects. That was the first issue. The second, it still needed to be attributable and have a nexus to tourism at the end of the day. The finance department had calculated that between the expenses of police, fire, EMS, and emergency management and E911, there was approximately $7.8 million that had not been recovered through other forms of use of those funds such as state accommodations tax, the local accommodations fee, or the 1% hospitality fee. The majority of that was in the fire fund. Approximately $4.9 million which they did not allocate any hospitality into that fund now. Within the general fund it would be $2.9 million. You could use that to offset the cost of tourism. You could add additional personnel above and beyond that, however there needed to be a demonstrable nexus to tourism at the end of the day that the officers were going to be on the beach or going to be on a high traffic corridor like a US-501 or a US-17. The other point that was important for Council to note was that 71% of this money was generated within the municipalities. Concern could arise about the use of revenue generated within the cities for county public safety services. One point of discussion on the use of these funds was to further the construction of I-73. The initial leg of I-73 was SC-22. That section was built with the 1.5% hospitality fee. The corridor went from north of Latta past Mullins and then would connect up at SC-22 between the interchanges with US-701 and SC-319. The South Carolina Department of Transportation had been working on receiving a permit. They had received that permit though it was being litigated at the time. They had been paying for a lot of the environmental impact work for that. They had bought some right-of-way and done the design. They had been paying for the design between I-95 and US-501 in Dillon County. There was about $29 million left of those state funds. SCDOT just submitted an application for a BUILD grant and requested those funds. The current estimate of construction for the entire corridor basically from I-95 to SC-22 was between $1.2 and $1.6 billion. The working estimate was $1.3 billion. They estimated that just to build the section within Horry County was between $373 and $507 million with a working estimate of $540 million. Estimates provided by SCDOT as we get closer to construction would be subject to revision. Every cost estimate aged as time went on and those were created last year.

When you looked at what $30 million would buy, you had to consider the following. The population of Horry County was on track to reach 400,000 people by the next 20 – 30 years and there is a need for a viable evacuation route during a major storm. Currently, if there was a full occupancy weekend and a need to evacuate, emergency management estimated it would take 34 hours to empty out all zones A, B, and C. Current projections look like that would be over 40 hours by 2030. The lack of interstate access hampers our efforts in diversifying the local economy beyond retirees and tourism. We are also one of the largest major tourist destinations in the nation without interstate access. While our air travel had been increasing, this was still a "drive market". Our tourists come in basically by their cars. I-73 was cost effective. There had been a lot of alternatives put out there like turning SC-38/US-501 into a freeway and similarly doing that to SC-9. They asked SCDOT if that was more cost effective and the answer was no. According to SCDOT SC-38 to US-501 would be $150 million more than I-73. Turning SC-9 into a freeway would be $360 million more than the current estimate.

The resolution that they had before them would basically begin committing $30 million of that $41.5 million per year towards the construction of building I-73 with the potential emphasis of getting the Horry County section built between US-76 in Mullins and SC-22. If approved, staff would engage SCDOT in discussions about entering into agreements about acquiring right-of-way, designing and improving the shoulders on Highway 22 to be at interstate standards. It would also likely be used as a solid match for federal and state grant opportunities to construct the entire corridor. On the federal level, we saw opportunities with BUILD grants, INFER grants, and the House introduced their version of the Trump infrastructure bill which would include a fairly substantial increase in the federal gas tax as well as a requirement to allocate 30% of these projects to rural areas which this project fits that definition. The federal government was moving away from an 80% funded model and were moving more emphasis to a 20% federal money model. He thought they would be able to demonstrate a fairly substantial commitment to this project in being out there and generating interest. He thought there was also money available on the SIB as well as direct appropriation at the state legislative level.

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The first resolution would dedicate $30 million per year for the construction of I-73. The second and third resolutions were an either/or resolution. The second resolution would direct staff to develop a comprehensive road construction plan consistent with the existing ordinance. They estimated around $146 - $147 million could be available for additional road construction projects. The third resolution would direct staff to do the following: Develop an ordinance for Council's consideration that would take three readings to repeal the existing restriction on using the 1.5% only for roads. They would be directed to develop a plan for the 2020 budget. The money was not currently available to spend. It was a next year issue. Using approximately $7.8 million that could be recovered from existing cost that they were bearing in the general fund for public safety and the fire fund for public safety and put the remainder to roads. That estimate would be approximately $57 - $58 million for road projects from there.

Mr. Prince asked if they could use any of the 1% for the parks and recreation and fire station.

Mr. Powell said you could use the 1.5%. Currently they were spending the entire amount of the 1%. If you shifted some of that money over to recreation, you would be creating a hole elsewhere. You could put the 1.5% to parks and recreation if there was an ordinance repealing the requirement that it be used only on roads.

Mr. Prince asked if that was only if it was open for the tourists to use.

Mr. Powell said it would have to be a project like a large scale ballfield that would bring in a sports tourism project.

Mr. Prince asked if there would be any money left over in 2019 after the payout.

Mr. Powell said they anticipated having all the funds that they needed to have on deposit sometime in the January/February time frame. There would be a balance at the end of this year between that point and June, but they could propose that for appropriation in budget FY2020.

Mr. Prince said they had been working on extending SC-9 into I-95 for 30 or more years. Where were they on that?

Mr. Powell said he couldn't speak for where SCDOT was on that project.

Mr. Prince said he would like to know what part this played in it. It had been going on for 30 some years. It just kept getting put to the side. He would like to have an answer to that.

Mr. Powell said they could find that out.

Mr. Vaught said he had a couple of questions. First, if Resolution R-82-18 failed, were R-83-18 and R-84-18 moot?

Mr. Powell said no. The language as written was that it would be for the uncommitted balance of the hospitality fee.

Mr. Vaught said if they didn't commit that $30 million to I-73, then there wouldn't be an uncommitted balance.

Mr. Powell said it would be the entire amount.

Mr. Vaught said the $30 million in question could not be used for anything else according to the numbers and what they could do with the rest of it. The $30 million had to be used for a highway project or something tourism related.

Mr. Powell said that as the ordinance was currently written, it had to go to a road project. They could repeal that ordinance and use it for tourism related projects.

Chairman Lazarus said it had to be a tourism related road.

Mr. Vaught said he understood that part of it. He was saying $30 million became a magic number somehow and he was wondering how it became a magic number. Why wasn't it $25 or $35 million or whatever?

Mr. Powell said when the question was posed to staff about potentially borrowing against these revenues, $30 million was where they felt comfortable while still having a hedge, a cushion, above and beyond that that they would still be able to make the payments.

Mr. Vaught said that it would service the bond basically out of the $30 million.

Mr. Powell said yes.

Chairman Lazarus said that number also got the county enough money to build the Horry County portion of I-73.

Mr. Vaught said that was going to be his next question. The $30 million, should they send it this way, would only be applicable to the Horry County portion, correct.

Mr. Powell said yes.

Chairman Lazarus said that was correct. It would get us to I-76 in Mullins.

Mr. Vaught asked how long it would be before they knew about the rest of the funding. They would be banking the $30 million and it would be sitting there. Did they have any idea how long it would be before they knew they needed to spend the money. He hated to have it sitting there doing nothing when they had all kind of things that they needed to do with the money when they didn't know how long. He knew that currently they had litigation and they knew from International Drive how long that kind of mess could go on. He thought they already had the mitigation done. All they needed to do was the right-of-way, the planning and all that.

Mr. Powell said that most of the right-of-way was in Dillon and Marion Counties. They would still have to acquire the Horry County section of the right-of-way. In terms of the positioning for the Trump Infrastructure Bill, from their consultations with the delegation that was probably not until the beginning of next year. They didn't see them. There was only 14 legislative days before the end of the federal fiscal year. It was unlikely and then they were going into election season so he thought it positions us well for being really well considered in that bill when it started next year.

Mr. Vaught said this was a hedge to say that when they were ready we were ready.

Mr. Powell said yes.

Mr. Vaught asked how long the $30 million commitment would last.

Mr. Powell said the 1.5% was in perpetuity now. The upper limit of what they would be seeking to pay for at current cost estimate was $440 million for the Horry County section of the road. We would try to seek grants and other options that would lower that cost down long term, but for them to have that revenue available sent a strong message to both the state and federal governments that we were serious about the project.

Mr. Eldridge said it was a resolution. All it took was another resolution of Council to change it. It was only obligated once you bonded it and you started having it dedicated for debt service. Unless Council chose as part of a resolution to say they had to revisit it at a certain time. Council could introduce a resolution at any time.

Mr. Vaught said they had not set a time limit. They were saying they would use it as long as they had to use it for this project.

Mr. Eldridge said it opened the eyes at the state and federal level to hear a local community come up with $440 million to go towards an interstate project. He didn't know many communities around the country that could say that. When you were able to bring that forward for any legislation that might come up, it definitely put us towards the front of the list for projects. Again, it was the federal government so there were no guarantees.

Mr. Vaught said he understood. His concern with this was in the perception of the public that they were just putting the money out there. Putting it for I-73 with all the other needs, the question that seemed to be arising from the public was why

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were they setting aside all of this money on something that may or may not happen. They didn't know how much of it they would actually need or anything like that. They had very pressing needs for public safety. That was the concern that he was hearing expressed and that was the concern that he had to think about when he considered this.

Mr. Eldridge referred back to the slide and said that of that only $7.8 million could go towards public safety. That was the challenge. The rest would have to be used on something else. It couldn't all go to public safety because Council would like for it to. You had to have that nexus and that was why they asked finance to say what they could legally justify towards that. It was a surprise to them that the bulk of it was towards the fire fund because of our greatest needs in the general fund. They were talking about police, EMS and those uses and the most of it would go towards the fire fund. Yes, the other uses were there. Other roads and areas, but you had to keep that nexus tied to it.

Mr. Vaught said he knew they had the restriction on it. One of the things that needed to be flexible on this as they went through the discussion was did that $30 million need to be a locked in number or could they use more of it for other things that they needed that could maybe take some strain of the police and fire budgets.

Mr. Eldridge said he discussed this last time. It was hard for them to sit up there and look in a crystal ball because he didn't know what Council would say if Eula came back and said I-73 was a done deal, but they needed $33 million a year in debt service from Horry County to make it happen. He didn't know that Council wouldn't say yes to $3 million more. They didn't know. Maybe they ended up with $25 million. You didn't know but they tied this to what it would take to get to the Horry County line and pay for the Horry County portion and for our delegation to be able to go to Columbia and say they had a local community willing to step up and make this happen. The same with our congressmen and senators to be able to say that in D.C. as well. Here, they have a team and are willing to make this happen.

Mr. Vaught asked to clarify how long they projected that they would need to make the $30 million payments.

Mr. Powell said they were mulling a debt payment of approximately 20 years long.

Mr. Loftus referred to Resolution R-84-18, when it came to public safety, specifically on police, that could only be used for beach patrol and things of that nature. Was he correct?

Mr. Powell said they could recover the current cost that they were already incurring in the general fund for tourism and that would be approximately $2.9 million in the general fund and $4.9 in the fire fund. If they wanted to go above that and add more police officers or more whatever, they had to have a clear tie to tourism.

Mr. Eldridge said they looked at call volume to get the $2.9 million. It wasn't looking at an individual position. It was looking at when tourism spikes, the number of calls spike, so it was not the clearest of nexus. He asked Mr. Spivey to try and justify what they could and they felt confident they could justify it but it was going back to just calls. It was not pointing out to a specific beach patrol officer or anything else. It was showing how the amount of work spikes during the summer months.

Mr. Loftus said the point he was making was that there were restrictions. It couldn't just be general public safety. There were restrictions and ways they had to use it.

Mr. Eldridge said they were trying to be as aggressive as they could.

Mr. Loftus said he understood how it all worked. He just wanted to point out that it was not an unlimited thing they could do with whatever they wanted.

Mr. DiSabato asked if they could talk a little about what the $2.9 million would be used for when it came to police enhancements and then correspondingly what the $4.9 million would be used for when it came to the fire fund enhancements.

Mr. Eldridge said it would be an opportunity for them to lessen that millage amount. It was 9.5 mils in the general fund because that was what they were capped out at and they could see what it tied to.

Mr. DiSabato said the answer was that they didn't know what it would be. They would just know it would go towards public safety but not specifics.

Mr. Eldridge said they would have to come up with what they wanted to do. It would not be able to do the presented list of projects. It was nowhere close.

Mr. DiSabato said he understood that but it would offset that cost to a certain extent.

Mr. Eldridge said by 1.5 mils instead of 9.5 mils it would be 8 mils.

Mr. DiSabato said maybe the conversation should be tabled until after they heard the presentation because he wanted to know what the departments were telling them that they needed before he made a decision on how to allocate these funds.

Mr. Eldridge said they would hear it. You couldn't go beyond that amount. You have two decisions. They had a decision on the $30 million and then separate decisions on the balance.

Mr. DiSabato said that from the beginning when they started talking about the sunset provision, he wanted to go on record and say that he would not have voted for it to be extended if it was only going to be used for one thing. From the beginning they were told that it could be used for a number of different items. He understood the importance of I-73 and he was 100% in support of the first resolution that they were talking about there today allocating the majority of that money to that project because they had to and because it was an important project. His question was, the roughly $11 million remaining balance that they would have above and beyond that $30 million that they were collecting, he wanted to know how it would be used and he would like to know what they could use it for.

Chairman Lazarus said the reason he had this in a particular order was they would take the vote on the first resolution first and then before they took the second and third together, they would give a full presentation of what the allocation of that money could be so they could decide which use it would be.

Mr. DiSabato said he was comfortable with that.

Mr. Worley said he had given them warning at the last Council meeting when they were discussing this that they were going to have a debate, a discussion on how they were going to use this $40 million. He agreed that the Grand Strand could use an interstate road. No question about that. But for the people of Horry County to have to pay a dis-proportionate share of the cost of that road was ridiculous. When you looked at the $400 million that Mr. Powell just proposed that they put on the table for a $30 million (inaudible) that would build the Horry side. Marion and Dillon Counties didn't have a hospitality fee. So that meant we would build our Horry County side and then the feds would come in and build the Marion and Dillon side. Therefore, we would get absolutely nothing. That was one of the issues he had with it. Again, he thought I-73 was a good idea when its time comes, and we probably need to be working on that. He thought they had more urgent need in Horry County. Horry County needed more public safety, not just police, EMS, fire, but mainly on the police side. He thought it should be what was collected from the tourists. He asked them to go ahead and do the presentation.

Chairman Lazarus said they were going to present it. 65% of the collections came from the tourists. 71% of it came from the municipalities who would benefit from the road. Did he not think that the road built in Marion and Dillon Counties would benefit Horry County? We had to get them here. We had to get to I-95. It did benefit us. It would stop on Ocean Drive and was the biggest economic infrastructure public safety legislation that we could have before them to benefit the Grand Strand to bring in jobs, tourists, and to get people out of here. We had to alleviate traffic on US-501. That was what this would do.

Mr. Worley said the need that we had in Horry County was in public safety. He had been saying this all along. He again asked if they could get the presentation put on the board.

Chairman Lazarus said they had just showed him that they could use $7.8 million of it so when they put it on the board they would discuss how to use that $7.8 million. The point was that if they didn't do anything with the $30 million, they would put it towards roads. They couldn't put it towards public safety because they couldn't justify using it there. He didn't understand the logic.

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Mr. Worley said he wanted to have this debate and he thought the people deserved to hear them debate this issue. They couldn't vote on Resolution R-82-18 until they talked about the public safety issues and the two referendums they had introduced to add 10 mils in one referendum and 9.5 mils in another referendum when they had the money available that they could possibly use, at least some of it, for public safety. If they couldn't get it put on the board, he would read it.

Chairman Lazarus said he didn't have a problem putting it on the board.

Mr. Worley said he agreed that they needed to vote on the $30 million but they needed to talk about the other things so other Council members could chime in as to what they believed was the most pressing issue. He thought public safety was.

Chairman Lazarus said nobody was disagreeing with that. They were just disagreeing on how much money. He instructed them to put the presentation up.

Mr. Eldridge said this was two issue. They were becoming tied together but they were instructed by Council to come up with the referendum question to address public safety issues. That was why they were going to see the two referendum questions that they did for general fund, police, fire, EMS, E911 and then a second one addressing the fire fund.

Mr. Worley said he understood that but before they voted on the $30 million to allocate to I-73, did Council believe there were other pressing needs out there. He for one thought there were pressing needs other than I-73. I-73 was important and he wanted to fund some of it but not all of it.

Mr. Eldridge said the needs went beyond what they were able to present to them because they were presenting what the state law restricted them to even dream about doing. The 9.5 mils was capped out based upon state law. The other issues being talked about on the usages of the hospitality taxes and ATAXs were restricted by state law as well. It was where the state legislature did not allow County Councils to run their Counties to a certain extent.

Mr. Worley said he understood home rule.

Mr. Prince asked where the 9.5 mils came in.

Mr. Eldridge presented a PowerPoint presentation. He had pushed the departments hard on turnover, getting positions filled the best that they could. He thought the Chiefs had done a good job addressing this. Turnover rates were trending lower so far this year. Actual openings were less. The police department had 12 openings but were hiring four certified the next week and five were going to the academy. Fire/EMS had 32 going to class in August. It would more or less fill up every one of those position and of those 32, 10 were paramedics. There had been a lot of work put into this. When Council asked them about this they went to work, especially the police chief, fire chief, finance and it spilled over into planning. They asked the planning staff to look at future growth trends where stations would be needed. They would need to address those needs. The police department would need 80 positions, a new East Precinct, and 9.3% increase for Class 1 - 3 officers. Fire and Rescue would need 150 positions with salary increases of 7.4% for line personnel. The Chief wanted another stratification of positions with engineers and that would be 7.1% additional increase for engineer positions. With the new enhancements, they would need more dispatchers and they estimated they would need 16 new positions. The sheriff's department would need a 9.3% increase for Class 1 - 3 officers and 4.6% for Class 2 officers. The total recurring cost would be $20,950,000 in the general fund, $10,640,000 in the fire fund, $990,000 in the debt fund with a continuing cost of $32,790,000. To step up the fifth precinct (East Precinct) would be 45 positions.

Mr. Prince asked where the East Precinct would be located.

Mr. Eldridge said it would be somewhere around the International Drive/31 area. The other staff positions recommended were 21 positions for precinct staff expansion, 5 positions for support expansions, and 8 positions for CID expansion. There would also be a salary increase. The East precinct would need a new building with an estimated cost of $3,000,000. The 45 positions would break out to 40 Class 1, 3 Class 3, and 2 civilians. When you started looking at the precincts, there were four shifts and it took a lot of officers to have a tangible sense that you were making a difference on the street. If they just wanted four more on the road per precinct with the four current ones it was 64 officers. That was the magnitude that we had in a

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County our size and what we are trying to cover. He presented a slide with the current four precinct map and then a slide with the proposed five precinct map to show the difference in the coverage areas. The fifth precinct would help spread the load in all the precincts, especially the West precinct. This would help address some of the issues. He then presented slides on the other precinct staff expansions, support staff expansion, and CID expansion. The detectives do an amazing job. It was unbelievable what they were able to accomplish with the officers that they had. They worked hard and worked an unbelievable amount of overtime. When a homicide happened, they worked it until they had someone in jail. CID expansion was a part of the equation as well with 2 homicide detectives, 2 special victims' detectives, 2 narcotics detectives, 1 fingerprint database operator, and 1 chemist assistant. Human resources looked around on salaries and they came up with proposed police salary increases which he presented a slide on. It put the County in the same range. It was hard to match apples to apples. We provide some benefits that others don't. It was always tough to get it purely apples to apples so they were just looking at salaries. The proposed increase would be on top of the $1 that Council approved in the current budget coming in October. This would be above and beyond that as well as the 3% merit.

He then presented the Fire/Rescue department's recommendation. The chief went back and looked at scenarios with four person per apparatus, addressing ISO 10 through the whole county, and it got ridiculous cost wise. They tried to look at something that was reasonable and it had a nexus timed back to trying to get three person apparatus staffing, looking at growth, looking at what was most efficient on rural fire coverage and help with ambulance crews. The county was growing and the ambulance crews were running non-stop. To do this, they would need 18 positions to convert staffed stations to 3 person staffing. It did not do the 4 person staffing as recommended by NFPA which had an estimated cost of $12,070,000 annually. Other recommendations that the chief had were converting the volunteer stations, Carolina Bays, Nixonville/Wampee with a new consolidated building and Longs, into career stations, adding ladder truck staffing at Little River and Scipio, it would add for additions to Socastee and rebuild the Longs and Forestbrook stations. To enhance the rural fire coverage, they would look at making some of the rural stations have daytime coverage, add a tanker at Reeves Ferry due to water supply, construct new Shell station and expand Goretown and Cherry Hill. This would help with ISO coverage. To get it to ISO 3 at 99% of the county would be over $20 million annually. It would double the millage that we had now. It would help 3,000 or so homes. He presented a slide with the current ISO 10 territories. For a county our size, it was still very good. To be providing the coverage Council did, it was amazing for a county our size. He presented a slide with increased ambulance crews. He thought it was well justified. They continued to see growth in all the calls. They were trying to provide the best service and coverage that they could with what they had now. He presented maps with the current 4-Minute BLS coverage, the proposed 4-Minute coverage, current 8-Minute ALS coverage, and proposed 8-Minute ALS coverage. When you staffed up, there were other needs and he presented a list of ancillary positions that they recommend. On the fire salary increases, they went back and looked at our market. We were not too far off. He presented the proposed increases. He presented slides on E911 and sheriff/detention. The entrance for Class 2 detention officers would be 4.6% and then Class 1 would be 9.3% the same as the police department. When you went back to the 9.5 mils that was where they were capped out. The state would allow local governments, municipalities and counties to do a millage increase tied to growth plus CPI. That was all you could do. They changed it a few years ago and would let you do a look back provision. Council had not done a tax increase in the last 3 – 4 years. They could grab 3 years' worth and that was how you got the aggregate of 9.5 mils. That was what the legislature capped County Council's ability to do. That was why they tried to work the most that they could within that 9.5 mils. They tried to present something that would make a difference and make financial sense as well. There were counties and cities in the state that had no growth and they were only dealing with CPI. He presented the taxpayer impact and the proposed referendum questions.

Chairman Lazarus asked him to go back to Resolution 84-18 and what those funds would be directly used for. The $7.8 million that they had stated would be applicable from the hospitality fee, the 1.5% fee, what would they use or what was the recommendation for public safety to use those funds for.

Mr. Eldridge said they would be looking for direction from Council. They could actually add things to that list or reduce the 10 mils down to 8.5 mils. That would be a part of the referendum question and they would still get the laundry list of what he just showed them but you would get it for 1.5 mil less tax increase. Or, if Council wanted to do so, they would add to it and keep it at a 10 mil question and they would go back in and have other items that they would spend out of public safety. They could add more boots on the ground.

Chairman Lazarus asked if the Referendum question put out to the public didn't pass, and Council said they wanted to use the $7.8 million that was justified under the hospitality fee, what specifically could that be used for. What would the plan be

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for that? They didn't know if the public would vote for or against it so what they were holding on to was the 7.8 mils that they knew they could justify using out of the hospitality fee. No matter what the rest of it was used for $7.8 million could be used for public safety justified by staff. That would be how many mils towards. Go back to his plan.

Mr. Eldridge said they would have 1.5 that could go towards the general fund and then he thought the debate among Council would be boots on the ground or salaries.

Chairman Lazarus said if it passed that day as using the $7.8 million towards public safety, then two things would have to happen. One, they would have to undo the ordinance that was in place that directed the money just to roads. They would have to accomplish that first. Then they would come back with a definitive plan to be voted on by Council at that time what to use it for. By Mr. Powell's statements, only $2.8 million could be used for police because it came out of the general fund and $5 million to the fire.

Mr. Eldridge said correct.

Chairman Lazarus said he wanted to make sure that everybody understood what they were dealing with. Council had an opportunity to use $7.8 million to put towards public safety under the perimeters he had just talked about and pass a referendum question to put out to the public. If the public voted yes for that, then that would reduce the amount presented because they had the $7.8 million allocated towards it. That was the way it worked and he asked Mr. Eldridge if he was correct.

Mr. Eldridge said yes. They could see the recurring cost was about $32 million so they would only be covering $7.8 million of the $32 million that he had just shown them. It was frustrating but it got more complicated for them to get in there because the fire department was a combined department, Fire/Ems, and it was funded by both. So they funded a portion of a program.

Chairman Lazarus said in the general fund, the mils needed would drop only 1 mil probably and the fire fund would drop 4 mils on the referendum question.

Mr. Eldridge said that a mil was only worth half as much so if you threw in the $4.8 million.

Mr. Powell referred to the referendum question on the general fund you could reduce it by 1.4 mils and the fire fund 4.7 mils.

Chairman Lazarus said that what they were saying was if Council voted for the $7.8 million to go towards the public safety then that was what the reduction of the referendum question could be if they wanted more monies to go towards public safety.

Mr. Worley referred to the referendum question and said the Mr. Servant might be in a position to make a motion to, he didn't want to put words in his mouth…

Mr. Servant said he wanted to listen to the rest of the discussion.

Chairman Lazarus said they would wait until they got there because they didn't know what Council would decide to do with the $7.8 million or the $30 million. Once they got there then they could get to the referendum. He thought that would be the proper order.

Mr. Worley said depending on that, certainly they would have financials…

Mr. Prince said they didn't know if there would be a referendum yet.

Chairman Lazarus said correct, they didn't know yet.

Mr. Worley told Mr. Eldridge that he had done a good job putting this together as to the needs of police, fire, E911, and others. On the $32 million, they wouldn't be able to get that much but he was and he understood the votes may not be there but he would say that he believed that public safety was their number one job. Carolina Forest and areas like Little River needed more police, ambulance workers, firemen, and the only way they were going to attract them was to pay them. Nobody

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wanted to work 75 – 80 hours per week to make a living. They had an opportunity there to take this referendum off the people so that they didn't have to make that decision. They could make the decision for them, and they could take some of this money. He told Chairman Lazarus that it might not give him the $400 million that he wanted but based on his amortization, they could allocate $300 million and he was giving in a little but he wanted $20 million plus he wanted the growth to go to public safety. Over the years it would grow 5% so if they allocated $300 million which would be Horry County's share and broke it down that was our fair share. If you amortized that $300 million over 20 years you were looking at about $20 million so they could take $20 million and add to police. Give them a fair wage. They deserved a living wage. Why was it okay for the men in the county to have to work for six or seven thousand dollars below Myrtle Beach and North Myrtle Beach? E911 was the same way. It was time they did the right thing and took this money that was there that they could use. The debate about where it was collected and who paid it, they could argue about that. He thought with this and hopefully they could work with the delegation and get an impact fee statute that they could work with. With that they could get some of this growth paid for without raising the millage on the people. 10 mils on one and 9.5 mils on the other. They were not going to vote for that. That was absurd.

Chairman Lazarus told Mr. Worley that he didn't think there was anybody up there that disagreed with him. What he did disagree with him about was the $20 million. They had just heard a presentation from staff. They had dug in as hard as they could. What he was telling them was he didn't have a problem usurping the law, what the law said. He was very diligent about the law. He knew the hospitality law better than anybody and the municipalities. When 71% of these dollars were collected by the municipalities and they were going to tell them that they were going to put it into a service that they didn't use. He thought that would be another conversation they would probably have across the hall as he always said. He wanted to be very careful on how they did this and that was why he hoped they presented this thing to pull $7.8 million out of the 1.5% tax. He didn't disagree with him that they had been talking about it for a long time about an impact fee that would be usable to be able to go towards salaries. Now they couldn't use the impact fee for salaries so that was another discussion that they would have and certainly take forward to the legislature as they had talked about. If he wanted to usurp the law that was fine. Let's go change the law first before they break the law. He thought that was the thing they needed to look at. He didn't disagree and he didn't think the eleven other people up there disagreed with him on what they needed to do and what they would like to do for public safety. They had done it. This Council had stepped up and raised millage. They cut $4 million out of the budget this year to bring more money back over into the general fund to fund public safety. They had added millage in the fire fund, and added millage in the general fund for police over the five years that he and Mr. Worley had been there together. They had done a good job doing that but he was right, they needed more and where do they find it without breaking the law.

Mr. Worley said the problem with that position was that the employees basically got nothing. Nothing from nothing was nothing. The reason for it was the referendum that they were proposing to pass was nothing. It wouldn't pass so they would get zero. They had an opportunity there to fund I-73 $300 million and he didn't mean what he was going to say to brow beat the staff, but in all fairness they had been told on Council that they couldn't use a nickel of this money.

Chairman Lazarus said they couldn't because Council passed a resolution that said it could only be used for roads.

Mr. Worley said what he was saying was they had an opportunity. They couldn't fix it completely but he could tell them he believed they could go through the list of enhancements and come up with something that they could give the public safety employees a pay raise to where they needed to be so that they were competitive. So that they could retain high quality people. So that when his mother called for an ambulance there was one going that hadn't worked 80 hours that week or a police officer. If somebody was breaking in on her and the response time was 25 – 30 minutes. They had an opportunity there to fix this. They could fund I-73. He wasn't against I-73. He just didn't want to pay more than their fair share. The $300 million was their fair share for the whole road all the way from SC-22 to I-95 so why not let these other people put a hospitality fee on themselves in Marion and Dillon. Those were good and fair people and would understand. Then with the state and federal money they would have a road. They had $20 million plus to pay the employees a fair wage and hire more people so that they could have good service.

Chairman Lazarus told him what he wanted Council to do was vote on something that would be, as staff had told them, against the law.

Mr. Worley said no. He was just saying they told them for the last two years that they couldn't use a quarter of it but now they were telling them they could use this.

Mr. DiSabato asked if they could use more than that. What did the law allow them to do?

Mr. Eldridge said they had looked in the public safety departments and that was what Mr. Spivey looked at to come up with the $7.8 million.

Mr. Worley asked where.

Mr. Prince said it was because it was tourist related.

Mr. Eldridge said it was because they were able to look at call volumes and everything else. When you were looking at police calls. This was not beach front or anything. They were looking at call volume.

Mr. DiSabato asked if they could allocate a penny more than that dollar towards public safety. Legally. That was his question.

Mr. Eldridge said that we were the only county in the State of South Carolina with the 1.5% tax. There were a lot of counties that would love to have it and were envious of it.

Mr. Spivey said that the analysis that they completed was trying to measure the impact that tourism had on the general fund. The impact that they had tried to measure was what was the impact of tourism on our general fund because they recognized that it affected us in multiple ways. This analysis had been limited specifically to those elements that were included in state statute as well as the County ordinance that we had limiting those things to police, EMS, fire, and the related support service. They included E911 and communications which were directly feeding those operations. They had burdened it with the full overhead cost. They had allocated a portion of finance, procurement, human resources, and the treasurer's office where she collected money. They had included all costs that they felt they could possibly include in those categories. They recognized that there were impacts of tourism beyond that. At the detention center, in the court system which drives our solicitor, sheriff, and clerk of court. They could list multiple things where they thought there were impacts but state law did not allow them to include that in this calculation. So from the standpoint of what they had included, they thought it was in accordance with our ordinance as well as state law and what was permissible for them to be able to recapture out of that 1.5%.

Mr. DiSabato said in plain English we could only take $7.8 million and put it towards the general fund of this hospitality fee.

Mr. Eldridge said only $2.8 towards the general fund.

Mr. DiSabato said yea. The $4.9 million for the fire fund and $2.9 million.

Mr. Spivey said that was of the existing expense base that we had today. As Mr. Powell indicated, if you added a particular service that only benefited tourism, you could fund this out of this funding as well.

Mr. DiSabato said sure. So they couldn't just take $20 million of this money and say that we were putting it to the public safety fund.

Mr. Eldridge said he wanted to. They were just giving them their honest opinion as their staff and what they asked them to do. They were trying to tell them what they knew or felt. They wanted them to tell the truth and this was what they felt they could justify. The legislature could make this go away.

Chairman Lazarus told Mr. Worley what he was proposing, they would have to get to the vote and someone would have to ask for an amendment to it as they had it laid out. They would get to that and he would have an opportunity to make that suggestion again and then they would have more discussion. On any of the discussion related to the use of the hospitality, he asked they keep it to the 1.5% hospitality tax and not the referendum question then.

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Mr. Prince wanted to point out that over 65% of this tax that they were talking about came from outside of Horry County that came in and paid.

Mr. Eldridge said that was usually the number.

Mr. Prince said he said 71% of it was collected from the cities municipalities, but of that 71% that was collected from the municipalities most of it came from outside of Horry County also.

Mr. Eldridge said probably so. You couldn't tie it down. There were plenty of people that lived in the city that were buying things.

Mr. Prince said that just because it was in the city didn't make it city money.

Mr. Eldridge said correct. That was where most of the commercial buildings were. That was where it takes place.

Mr. Prince said he agreed with Mr. Worley. He would like to have a lot more money to put in for Horry County. We had to do things for ourselves in Horry County. If we didn't, who would do it for us?

Mr. Crawford said basically they were capped at $7.8 million when they were talking about the 1.5%. They could use that for public safety.

Mr. Eldridge said correct and divide it out among those two funds.

Mr. Crawford said they couldn't utilize impact fees to pay for more officers and that sort of thing, correct?

Mr. Eldridge said no. He would never recommend that. He probably got accused of being too conservative but they were budgeting $14 million a year that was really based upon the growth that they were experiencing. When they go into another downturn that faucet got turned back and they had a $7.8 million hole. He didn't want to be Mr. Negative but we would not boom like this all the time and that was a concern he had as well with the budgets moving forward.

Mr. Crawford said there was another argument out there that somehow we could find the $32 million that would be generated from the referendum inside the current budget. He sympathized with the thinking behind that but that would lead to all sorts of... I guess the expectation there would be that there would be no consequence to that.

Mr. Eldridge said they had actually ran a little bit of stuff. They had a slide that said how many layoffs it would take.

Mr. Crawford said basically any way they turned we were left with that $7.8 million for public safety and we had the referendum, or we could just arbitrarily come up and raise taxes without the referendum, without giving the people a say in an increase that large.

Mr. Eldridge said correct. He knew Council was aware because they had pushed them to do this to look hard at expenditures and revenues and that was when they tightened budgets. He heard departments scream a little bit and they held departments accountable with their budgets by line. It was all up on a dashboard and they all looked at it. They had looked on the revenue side. If they remembered, they had put the EMS billing out and no longer did that in-house. They had tried to look at each way to work within what they already had. He didn't think there was a bunch of money laying around within the budgets. He knew the department heads would agree with him.

Mr. Crawford said the only recourse would be to ignore state law and nothing negative would happen if they did that, right?

Mr. DiSabato said he had ran over rough numbers prior to the meeting with some people on staff. To add a fifth precinct would cost $5 million annually for the capital and the labor associated with that fifth precinct. Then if they wanted to get the pay increases for First and Third Class officers in line with Myrtle Beach, the highest paying municipality, that was an additional $4.5 million. Correct? So you were looking at $9.5 - $10 million annually that they would need to find in order

to do everything that they wanted to do. There was not that kind of fat laying in the general fund. So, what they were looking at was using hospitality fee money and a potential millage increase to fund these needs.

Mr. Eldridge said yes and he had seen the hospitality was just a small part of that. It didn't even cover the raise he just mentioned.

Mr. DiSabato said that as far as state law went, if there was a $38 million pot, they couldn't just say they wanted to take $20 million out of that pot and use it for public safety. They had to use it for certain designated uses because of the way it had been collected. Was that correct?

Mr. Eldridge said that was correct.

Mr. DiSabato said he wanted the public to understand that. He would love to take $20 million out of that pot and use it for public safety. He didn't think they were allowed by law to do that and if they did it, they were going to end up on the other side of this building in court by doing that. So they needed to find ways to serve both masters. It was difficult to do. They were finding how difficult it was. When they first started talking about the hospitality fee he suggested taking $5 million out of the hospitality fee and start putting it towards public safety. They were already beyond that number. They were talking about $8 million. He would love to take $20 million but he didn't think they were allowed to.

Mr. Worley said 65% was collected from the tourists. Common sense told you that if you were going to take 65% from them, you could use 65% for services.

Mr. Prince said he liked that.

Chairman Lazarus said you could see where it was collected, but you would have to see where it was spent.

Mr. Loftus said state law currently handcuffed them with the allowed uses of the hospitality fee and left them with the $7.8 million. He was all for putting it on public safety. They needed it.

Mr. Eldridge said they were fortunate to have the 1.5%.

Mr. Loftus said 1996 was a good year when they got all that done.

Mr. Eldridge said they had a window of vulnerability between bonds being paid off and money obligated.

Mr. Loftus said he would agree with the impact fee. He had been with Mr. Worley on that from the beginning but impact fees were only a one time only money. So using impact fees to pay for recurring expenses was a dangerous thing to do.

Mr. Worley said that was not what he was talking about.

Mr. Vaught said the question on the 1.5% got down to the legalities of it. He was with Mr. DiSabato on that in that if state law did not allow them to spend that on what they needed to spend it on which was public safety then that was a moot point. The only other option they had if they were not going to spend it on that and should they decide not to spend it on I-73 was to stop the tax. That was really the only choice because they had to spend $30 million on roads and on tourist related stuff which basically was I-73. If the law said they couldn't spend but $7.8 million of that on public safety, then they didn't have a lot of choice about that. That was what they had to do. He didn't see how without a law change or something that would enable them to pull something out of their hat and justify something that would prove they could use $20 million for some kind of tourist related thing, he thought their hands were tied.

Mr. Howard said he was confident he had clarified it very well. Unless they came up with other tourist related projects, and there were others listed, the best use for the money on roads was I-73. There were other roads that were needed and they did need to address that down the road. They could always amend this if things changed. If the road never got built they would have that money sitting in the bank. They had a time to see if the road would be funded or built. They were at the point

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where the $30 million was the best use. He didn't know why they said $7.8 million when there was $41 million collected. It was basically $11 million that they could put towards public safety he was assuming.

Mr. Eldridge said not public safety. They could use the balance for other road projects as long as it stayed within that category. That was the gap in there.

Mr. Howard said the public safety was also considered any tourist highway. So if I-73 was a tourist highway they could put more public safety on that road or US-501 that was considered a tourist highway. They could increase public safety he thought from what they said. Why were they stuck at $7.8 million?

Mr. Eldridge said that was what Mr. Spivey could justify currently. That was why they were clear in saying that if they wanted to look at adding something in the future as a Council, it would be a whole different program or whatever, and they would need that clear connection to tourism.

Mr. Howard asked if they committed to the $30 million, they could figure out how to use the whole $11 million for public safety if they were going to use it in areas where there were tourist highways going through the County.

Mr. Eldridge said if you found a way. It didn't address Mr. Worley's concern.

Mr. Howard said they weren't saying it was a dead end. They were saying this was where they were recommending. They could amend these things. They could change these things. They had done a great job clarifying this money and the needs. He appreciated the hard work. Thank you.

Chairman Lazarus said he was correct. The growth that went above it could be allocated towards that because as that grew the justification of more money towards could be justified too in the future so there would be more money available in the future too for that.

Mr. Allen said they were tasked with the very difficult choice so they had a pie. They had to decide how to cut that pie. It would be nice to have a bigger pie but unfortunately they didn't. He had a question for staff regarding where they pulled the information as far as call volume to justify the spending on the public safety. Where did they pull the call volume from and on what time of the year?

Mr. Spivey said they looked over a 12 month period of time from the E911 records. They looked at 3 months that they felt represented a non-tourist season, December, January, and February, and they looked at a season that was definitely tourist related, June, July, and August. They could see a pronounced measurable increase in the volume of calls during those periods of time. They correlated that and referenced that back to the other indicators that they had been tracking over several years. They had had these discussions from time to time and they had looked at how many billings they did from EMS in terms of people who did not have zip codes that reside in Horry County. They knew that was not a complete indicator in terms of the services they were providing to the tourists because some of those calls were not billed. When they went to a wreck and somebody refused a transport or did not need a transport that was not a record that they had that they could use in that calculation. That was a driver in terms of both EMS and fire side. They had looked at the bookings that the police do, the actual arrests that they make as one of their measurements to try to validate that. That was not a complete measure either because of the same issue. They may go to a call and be a call for service but there was not an arrest associated with it. They also looked at the number of room nights at J. Reuben Long. They tracked where people come from and how long they stay. That was a direct indicator for the costs that were incurred there and perhaps on the court system as well. However, they couldn't include that there. They also compared that to other counties similar to themselves and tried to benchmark that from the standpoint of Charleston County, Beaufort County, and Horry County being the ones that receive the highest level of tourism in the state. They compared that to counties like Richland, Lexington, Greenville, and Florence in terms of benchmarking to see what the difference was. All those things gave them a clear indicator that the numbers they were using were appropriate.

Mr. Allen asked if there would be any way to go back and pull and check with the State Highway Patrol how many accidents or citations that they had issued over the last 12 months within Horry County on the major highways, US-501, US-378, US-9 and then go back and check with our fire rescue and look at how many accidents they had responded to on these major

highways. He thought what they would find would surprise them because where we used to having an off-season, we didn't have an off-season anymore. Because of the tourism, it was taxing our public safety. A statement was made earlier that the Council had done an amazing job. He thought that the people, the public safety employees had done an amazing job with the way they had been stretched out. Often times, we forget that they were the ones out there that make us look good. He thought if they went back and looked at that and checked these areas, he honestly believed it would give us a little more ammunition to reach and pull some more of that funding to justify because those tourists can't get to the beach without traversing these major corridors. It cost us to cover these with our public safety. Also, he wanted to not forget the other county employees. For example, you couldn't forget about that public works employee out there running a backhoe 24 hours to clear the highways to where public safety could respond after a hurricane. In order for us to get the tourists to the beach, we had to clear the highways. He thought they needed to go back and look further into this because he was all for it because they needed to beef up all the services that they possibly could. They asked public safety, including dispatch, to put their necks out there on the line for us and we needed to make sure that they were paid appropriately, that they have the best equipment we can afford for them, and that they have a good working environment because it takes a team. As was stated in a movie, he was with them. A house divided would not stand. They needed to find an answer.

Mr. Hardee said he agreed that we need I-73. If they didn't agree that they needed SC-22 and SC-31 how would they travel in this county today? He supported I-73 but at the same time he wished they could put $20 million towards public safety and help them. He didn't want to put the burdon totally on the taxpayer's backs but what could parks and recreation get out of this that was legal.

Mr. Eldridge said he thought there was an opportunity to go back and look at that. Definitely we were hosting tournaments on our fields so we could look at that. You had wiggle room in there. When you looked at the $7.8 you had $3 - $4 million over that and he thought that was a good plan. They didn't know which way Council wanted to go. He didn't know if they would get in the room and Council wanted to say no, they were sticking with roads. Ride I was all about roads and that was where we were staying. They could look at recreation as the easier one to make that connection, especially South Strand and North Strand. We were hosting tournaments that did impact tourism.

Mr. Hardee said parks and recreation was looking at being in the red.

Mr. Eldridge said they had talked about that several times. This year was it.

Mr. Hardee said while they had the opportunity now, let's not put it on the backs of the taxpayers. Water and drainage, our public works, somewhere he thought he saw that the hospitality tax could be used for water and sewer drainage for...

Mr. Eldridge said if you could tie it to tourism related. That was the challenge.

Mr. Hardee said like the project that the public works had to get to stop the water from crossing Highway 9. If that was not tourist related... They couldn't get there if the water was crossing like it was last year.

Mr. Eldridge said what they were looking at a lot of it had been what they had seen North Myrtle and others doing it with running stormwater offshore. That was what they had used it for.

Mr. Hardee said there were certain things that they might could tie this to and again, he was not trying to take the money from I-73 because he thought it was a much needed project, but they also needed to look at the taxpayers of Horry County.

Mr. Eldridge said they were there to do whatever Council wanted to do.

Mr. Prince said if they collected the money for a few years and no progress was made on I-73, since it was a Resolution they could divert some of the monies to help some of the services they had been talking about.

Mr. Eldridge said sure. If he remembered they just did Ride III and had over $2 billion worth of projects identified. In excess of $2 billion. So there were plenty of road projects too. He would never foresee a lack of needs in Horry County.

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Mr. Prince said they had a lot of two lane roads that needed some egress and ingress to help make them safer. He hoped they could use some of that for them.

Mr. Eldridge said there were a lot of intersection improvements. There was a laundry list that Mr. Gosnell identified and we were funding less than half.

Mr. Vaught said one of the things he had noticed in their discussion up and down the panel was that people had been coming up with ideas and thoughts and alternatives to what had been presented to them. He didn't see the need for them to rush into making this particular decision that day. He thought, given all the ideas that had been expressed and the questions that had been raised, he thought they could go back to staff and tell them to consider all the things presented. He didn't think this was something they needed to jump into and he didn't see the need to be hasty about this. He thought they needed to, especially in light of the advisory referendums that they would be talking about, he didn't think this was something they needed to jump into. It was not a decision that had to be made then and he thought they had heard enough alternatives and enough possible solutions, different ways to raise some money by the recreation or having Mr. Spivey reconsider some linkages to tourism and that kind of thing. **He would move that they table this if that would be in order.**

Chairman Lazarus asked table what?

Mr. Vaught said this discussion. Defer the discussions.

Chairman Lazarus said the problem with that was first, for I-73 the stars had lined up pretty good. They had a letter in front of them from the governor to Secretary Chao in support of I-73 and for our grant application that had been submitted to the SCDOT. That was high on the list currently. They were trying to go into the federal legislation. It was supported by President Trump. They already had the permits in hand to proceed with I-73. They had a lawsuit they would deal with but they would deal with that. Not necessarily on the Horry County portion as much as other portions of it was related by Mr. Eldridge. Currently, for them to be able to put their money where their mouth was and go forward and say they were not only shovel ready, they needed the percentage out of the infrastructure bill that Congressman Rice and Senator Graham and others were working hard on. They had made headway. They had already bought the mitigation bank for $6 million of Gunter's Island that goes with this project. If they continue to let it lie then they were probably going to miss the opportunity to make it happen. With the other referendum questions and the where you would direct the $7.8 million was something that could be discussed. That could be changed too because they were only resolutions. All that did was tell staff to go put it together to bring back to Council at some future date for that to happen. He thought the imperativeness of this was what they were going to do. Whether Mr. Worley's presentation passed on basically $23 million instead of $30 million or if the $30 million passed and they left the $7.8 million or if they did a combination thereof of the $7.8 million for public safety and another amount for the road plan that had been presented. There was always various ways to do that. He thought the imperative thing that they had and he had people in the audience from SCDOT and from the federal level that could speak to that for them if they wanted to hear from them on what action was being taken in the federal government and how they were sitting back waiting to see what would happen. This would put us way behind if we didn't do something, at least funding I-73 at this point and time. As he said earlier, for them legislatively this was probably the biggest infrastructure economic development and public safety legislation they could put forward that would benefit this entire county from all those reasons. He thought they needed to move resolution R-82-18 forward.

Mr. Worley seconded Mr. Vaught's motion.

Mr. Carotti said that would be out of order. There was no motion to table.

Chairman Lazarus said Mr. Vaught made a motion to table.

Mr. Carotti said there was no motion to table.

There was a discussion on the dais about there not being anything to table.

Chairman Lazarus told Mr. Vaught to hold that and they would go back in just a second.

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Mr. Vaught said the reason he raised this was because it was his impression from what Mr. Powell said was that there was no possibility for them getting on to a transportation bill this year. He asked Mr. Powell if that was correct. Did he misunderstand? That that was already pretty much done for this year. That they were looking towards next year as to when they could actually do something under that bill.

Mr. Powell said anything could happen in Congress.

Chairman Lazarus said to ask Mr. Napier. He had worked with them on the federal level. He had been working on this project for a long time and was in close contact with all the federal delegation. He asked him to give them his take on this.

Mr. Napier said he didn't think they would have a bill this year. That did not mean things were not happening week by week and month by month on putting together something to be introduced next year. He told Chairman Lazarus that he thought he stated things pretty well and that was that the more Council could give to this project, the stronger the application could be.

Chairman Lazarus told Mr. Cox that he represented them on the SCDOT and was in close communication with Ms. Christy Hall, the head of SCDOT. Could he tell them about her actions and what was taking place in the state government side to help move this along and what this would mean for her actions to be able to get the grants that we were looking for to make this road happen.

Mr. Cox said as Mr. Powell indicated the Secretary had applied for the BUILD grant. That was in the process and working. Hence the letter that he had just read from the governor and if Horry County made this commitment it would make us stand tall and he thought it would put us above... He thought we were the only project of this magnitude that was shovel ready in the nation. Hopefully we would be a poster child for the infrastructure bill but it also would give the Secretary an opportunity to seek funding either through the state infrastructure bank and direct sources within the state to let them know that we had made this commitment. It would be a strong commitment.

Chairman Lazarus said that if this was passed and nothing progressed in the federal government next year as they moved forward with the infrastructure bill, by resolution Council could certainly undo it and move the money somewhere else.

Mr. Cox said certainly and it wouldn't prohibit the construction of the portion within this county either. They could move forward with that. They had done that before and it had worked well for them and he thought that would show an even stronger commitment.

Chairman Lazarus asked Mr. Eldridge if the money was allocated and it allowed them to start negotiations with SCDOT and looking for right-of-way acquisitions enhancing SC-22 to interstate standards and things of that nature, we could build Horry County's portion of it which would basically be the northern piece that would take you to basically US-76 in Mullins just at the river. That piece could be built which would actually give them a true bypass for Hurricane evacuations, tourists in and out of here, and others to travel without having... And take a lot of traffic off of Highway 501 which was the biggest complaint that they get. That could all be in process whether or not the federal government allocated the monies to get you through from US-76 to I-95.

Mr. Eldridge said correct. A lot of the right-of-way had already been purchased.

Chairman Lazarus told the Council that they had heard all of this and they would move into discussion. He would entertain a motion for approval of Resolution -82-18.

Discussion Items:

Resolution R-82-18 dedicating $30 million of the hospitality fee annually to construct the Horry County section of I-73. **Mr. Howard moved to approve, seconded by Mr. Loftus.**

Mr. Worley said that with having Congressman Napier tell them that they were not going to have a bill this year he didn't see the need to rush into this. Give staff an opportunity. He thought that several of them had spoken of their concerns. Council would change in January and they would have a new chairman coming on board. The new chairman should have

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some say in this discussion since it was not a rush. If it was something that they needed to vote on that day, they would just have to vote on it. He was saying it was not something they had to do that day. **He moved to defer until after the first of the year, seconded by Mr. Vaught.**

Chairman Lazarus said that all the stars were lined up to move this forward. They were going to be debating this this coming year and they were debating it that day in the federal delegation. Our governor must have thought it was pretty important for him to go ahead and send a letter to Secretary Elaine Chao. It was an important piece for them to move forward and put their money where their mouth was and to show that they were in favor of I-73 and that they were ready to move forward with it. He disagreed with them respectfully that he believed this was the time to make that happen.

Mr. Loftus said regarding the timing, he did know how many people there remembered the bridge to nowhere. Billy Alford went out on a limb and got the bridge to nowhere built and look where it had led them that day. If they didn't get started they would never get moving. It had to start.

Mr. DiSabato said he was wondering if there was a compromise to be made somewhere.

Mr. Worley said give him $20 million and he would withdraw his motion.

Mr. Vaught said he would then withdraw his second.

Mr. DiSabato said his question for staff would be did $25 million a year get it done. What would get it done?

Mr. Prince said they could do more later on.

Mr. Eldridge said they tied that look into the cost to get it to the Horry County line based upon the current projections.

Mr. DiSabato asked if that number was solid at $30 million. They couldn't get by with doing $27.5 or $25 million and using the rest ...

Mr. Eldridge said he couldn't sit there and honestly tell them that. That was why he told them earlier what if they came up and had the whole project done and it took $33 million a year in debt service to get it done. It takes $32 million. Then that was a decision that they had to come back to Council to discuss. When you looked at cost for a project, they look a third, a third and a third. Maybe a way to make this happen was to be able to say the local government was coming up with a third at $400 million, the state could come up with $400 million, and the federal would come up with $400 million. You had $1.2 billion and you were there. There was no magic. There was logic but no magic to it. That had been his hesitation all along to not say this was what it takes, but as Mr. Napier would tell them and they heard, it meant a whole lot to be able to go up on the hill and say this local government in Horry County had made this kind of commitment to build an interstate. There was nowhere else you could find that in this country.

Mr. DiSabato said in regards to that comment, what would it say to the hill if they said they were giving $25 million to the project as opposed to $30 million.

Mr. Eldridge said it was just less of a commitment. Mr. Napier could tell them we had one third of the money from what they had on the current thing. So it was less. It went back to how you were going to spend it. You could spend it on other road projects. They had heard their recommendation on what they thought it could go towards public safety and there were plenty of local road needs. They could spend it tons of times over. He just wanted to be honest with Council. He didn't want to say $30 million and then the next thing debt service had to be more. Interest rates go up. All that effects your bonding capacity. They were looking at that. It depended on bond ratings and how they were rated and who was willing to secure them on how much we could borrow.

Mr. DiSabato said they had been doing a good job in that department so that helped.

Mr. Eldridge said yes. That was why they had looked. People even talked about tolling. Tolling was very expensive money because it was not a reliable source of revenue so you didn't get good rates. That was the danger with tolling. That was why

they would like to get it done without that. It was not a good source of revenue for this road because you didn't have the local traffic.

Mr. Worley suggested they take $25 million which was the $41 plus the growth and by the time the road was built you would have $25 million and that would give them $20 million to use for public safety if they could pull it off. They needed to look at everything that had anything to do with Horry County government. That way they wouldn't be building this road on the backs of these people. If they took all the money, they were not going to get the raise to where they needed to be competitive with Myrtle Beach and North Myrtle Beach. If staff could take a look at the $20 million and what they could do with the $20 million so far as employees were concerned. Number one being first line police officers. It was safety first. Second would be EMS. E-911 and all of them were important. He was saying there were areas that were in crisis. He had an EMS worker that told him she had worked 35 hours overtime. They had to fix that and this was a fund that they could use without raising taxes on the people of Horry County and they needed to do that. He was willing to make that motion if that was what they wanted him to do.

Chairman Lazarus told Mr. Worley if he would withdraw his deferral motion and Mr. Vaught would withdraw his second and make a motion to amend to $25 million on Resolution R-82-18, he could support it.

Mr. Worley said he was wanting $20 million.

Chairman Lazarus said that left him the balance to put down when they went to the next motion. They had to get to the next motion to do that.

Mr. Worley said he wanted $20 million and he could have the rest for I-73.

Mr. Vaught said that was basically what he was saying.

Mr. Worley said you would have growth the first four years and with 5% growth that would be $25 million.

Chairman Lazarus said what he was saying was they would take all the growth in the first five years which would take him to that number. That was fine. If they stuck with the $25 million he thought that was still a substantial allocation to I-73 for the public and if to amend it that was what they needed to do.

Mr. Worley asked if they were together.

Chairman Lazarus said they were together.

Mr. Worley withdrew his motion to defer, and Mr. Vaught withdrew his second.

Mr. Worley asked that they look at the fairness of the whole road, 37 miles, of that 37 miles approximately 16 miles of it was Horry County roads. He asked Mr. Powell how much the $25 million would bond.

Mr. Powell said $25 million would get them about $310 million in proceeds.

Chairman Lazarus asked if that was over 20 or 22 years.

Mr. Powell said 20 years

Chairman Lazarus said they could go to 22 years.

Mr. Worley asked why they couldn't go to 25 years.

Chairman Lazarus said he thought the law allowed them to go to 22.

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Mr. Powell said in the state law you could go to 40. In an ordinance they had a restriction of 20 years and not going beyond that. However, that was something that could be amended by Council.

Chairman Lazarus said they could fix that. He told Mr. Worley they could get to it.

Mr. Worley moved that they take $20 million of the $41 million that the 1.5% hospitality tax produced and use it for this presentation. Council would have an opportunity in the mean time to come up with how they wanted to use that $20 million versus the $32 million that they had. The balance of that $41 million plus growth for the next five years would go to I-73 and after that, the growth would come back to public safety. He wanted to leave enough money there to get them up to where they needed to be for $25 million and at that point and time the balance would come back to public safety.

Chairman Lazarus told Mr. Worley the math didn't work.

Mr. Worley said it did.

Chairman Lazarus said he was at $45 million.

Mr. Worley said no. They were talking about growth.

Chairman Lazarus said if you took $25 million, which went to I-73, and then you took the balance that was left today to public safety as he was asking and then you took the growth for the future towards public safety. It would take a long time to implement it.

Mr. Worley said he was close but not quite right. **He restated his motion as $20 million went to public safety to his program subject to their approval. That would leave $20 million for I-73 plus growth up to $25 million and after that then that growth would come back to public safety or to the Council in every budget year for them to use in the general fund.**

Mr. DiSabato asked that they tweak that and do $25 million to the road and $16 million to public safety and the growth to public safety.

Mr. Worley said they wanted to go ahead and give raises....

Chairman Lazarus said they couldn't implement that overnight. He was trying to negotiate with him and compromise.

Mr. Worley said that he and Chairman Lazarus had reached an agreement and now he was backing up on him.

Chairman Lazarus said no. He said $25 million and Mr. Worley said $20 million and he said it had to include the growth.

Mr. Worley said the growth was shown on the sheet that Mr. Eldridge had given him.

Mr. Loftus said they couldn't do that because state law didn't allow it.

Mr. Eldridge said they were talking about money that they wouldn't have until next budget year.

Mr. Worley said he understood that.

Mr. Eldridge said that the first issue was going into the congressional cycle and looking at that. This was a budget argument that Council would have next February – June as they went through three readings of budget.

Chairman Lazarus said that was why he was saying that if they passed the first resolution with the $25 million, that would leave staff to come back with how to spend and what to do with the balance because currently Council would be tough to even vote to allocate that much because they were being told you could only use $7.8 million. Based on what Mr. Allen

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presented and some other factors, you could probably get to that number. He was willing to leave that number out. All he was saying was they needed to pass the one that day. They still had all that money left over and growth to deal with once they could bring that back to them. They didn't need to put it all together.

Mr. Prince said that was the best way.

Mr. Eldridge clarified for the employees that they were talking about next year's budget. He didn't want employees thinking something would happen right now with this vote. This was this time next year.

Chairman Lazarus said they were talking over a 3 – 5 year period because it would take them that long to hire that many people.

Mr. Eldridge said that even working on the things that Mr. Worley asked them to work on, this revenue did not get freed up until February, March, and April of this year so it would be next budget year.

Mr. Worley said this was not what they had just agreed to. They agreed to give $20 million and the balance went to I-73. That was what they agreed to.

Chairman Lazarus said he agreed to $25 million and $20 million which would include growth was what he had agreed to.

Mr. Worley said no. He was taking the $20 million plus the growth because the road wouldn't even be built for the next 10 years. Why not go ahead and give them the money the next year. Building I-73 on the backs of these employees was absurd.

Mr. Prince said they were not doing that.

Mr. Worley said yes they were.

Chairman Lazarus said no they were not.

Mr. Worley said he would make his motion to defer again. **If they couldn't get the $20 million for the employees he moved that they defer it until after the first of the year, seconded by Mr. Vaught.**

Chairman Lazarus said first he had to withdraw his motion.

Mr. Worley said he was still giving I-73 $300 million plus for a project... That was a third of the entire project to I-95. We were paying a disproportionate share even at the $325 or $350 million.

Mr. DiSabato asked how would they send $20 million to employees without breaking state law.

Mr. Powell wanted to clarify one thing. The calculation he set at $310 million was based on $25 million per year. If they were to do it at $20 million per year over a 20 year term at 5% interest, it was approximately $250 million. He thought that was the delta that they had by changing that amount. He wanted to make sure that that was clear on the floor that that was how much (inaudible).

Chairman Lazarus said that was why he was asking Mr. Worley to look at it.

Mr. Worley asked what amortization schedule they were using. The number he got from the bank didn't match what they had just said. They were throwing something at him that he didn't understand because if you bond $300 million at 3% that was about $20 million per year.

Mr. Powell said he was running at 5% interest which was what they had been modeling this at. He put in $250 million, 20 year term, one payment per year, your scheduled annual payment would be $20,060,000 per year.

Mr. Worley said $20 million. He rested his case.

Chairman Lazarus asked Mr. Powell to repeat it.

Mr. Powell said if you wanted to borrow $250 million.

Chairman Lazarus said he wanted to borrow $300 million.

Mr. Powell said that would be $24 million. $300 million at 5% over 20 years would be $24 million per year.

Chairman Lazarus said Mr. Worley would give I-73 $24 million.

Mr. Worley said the growth they would get there, by the time they got ready to build the road they would have $24 million with growth.

Chairman Lazarus said they couldn't talk about growth because they couldn't go to Washington and say they thought it would grow. Here was what they had. They had $24 million a year which would get them $300 million. The balance of that would go to public safety plus the growth. So you start out with the differential and then you get the growth. I-73 didn't get any growth. I -73 just gets the $24 million. That works.

Mr. Prince asked if he could amend the motion.

Chairman Lazarus said they didn't have it yet.

Mr. Worley asked that they give public safety $18 million solid dollars and give the rest of it to I-73 until it gets up to $25 million and then after that the growth would go back to public safety.

Chairman Lazarus said that was $22.5 - $23 million. Was that correct?

Mr. Loftus said they couldn't do that unless they got the state law changed.

Chairman Lazarus said he understood. What he was saying was they would go ahead and put to bed the number they would allocate to I-73 and the balance would have to be determined later on how it could be used. Staff would have to bring that back. Whether you could use it or not.

Mr. Prince said he agreed with that. It made sense.

Mr. Loftus said okay.

Chairman Lazarus asked for a calculation of exactly what they were talking about. Public safety was at $18 million. $22 million plus growth to $25 million. Correct?

Mr. Worley said up to $25 million and then after that all growth would come back to public safety.

Chairman Lazarus said or whatever the Council decided to use it for.

Mr. Worley said or whatever but that was what they needed it for.

Mr. Powell said what they were asking him to do on the fly was a little challenging. However, you could do about $22.5 million per year, flat. Not counting absorbing any growth that would be $280 million over a 20 year period.

Mr. DiSabato asked what about over 22 years.

Chairman Lazarus said they were going to get up to $25 million as growth comes.

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Mr. DiSabato said he meant 22 years.

Chairman Lazarus said that was going to happen pretty quickly because of the way of our growth.

Mr. Worley said you would have $25 million so the $25 million was the number they needed to use because it would start next year. When did it start? January?

Chairman Lazarus told Mr. Worley that his motion was $18 million. There was a conversation of him having a second.

Mr. Worley said he did.

Chairman Lazarus asked him to withdraw his motion.

Mr. Worley withdrew his motion to defer, and Mr. Vaught withdrew his second.

Chairman Lazarus said he would give $18 million to public safety to be determined by staff and Council at a later date the appropriate use of that $18 million if it could be if not it would come back to be used for other road projects or whatever it may be. Then there would be $23 million for I-73. Was that correct?

Mr. Worley said he would go along with that.

Chairman Lazarus said that Mr. Worley had a motion to allocate $18 million to public safety to be determined by staff and then future Council on the appropriate use of that and $23 million to go to I-73.

Mr. Eldridge asked if they could modify that to state eligible projects.

Mr. Worley said yes. He would agree to that.

Chairman Lazarus said the way they needed to do it was first Resolution R-82-18 would be amended to dedicating $23 million of the hospitality fee annually to construct the Horry County section of I-73. The next motion after they finished that one if it passed, the next motion would be directing staff to create a plan for public safety and roads in FY2020 budget using $18 million. That would be Resolution R-84-18.

Mr. Carotti said the only addition would be $23 million for I-73 plus growth up to $25 million and the remainder to be considered for eligible uses public safety wise.

Mr. Worley said that was correct.

Chairman Lazarus said Mr. Worley had a motion, and instructed him to say yea if it was correct, they had an amendment to Resolution R-82-18 to amend R-82-18 to dedicate $23 million plus growth up to $25 million of the hospitality fee annually to construct the Horry County section of I-73. He asked Mr. Worley was that his motion, Mr. Worley said yes, and it was seconded by Mr. DiSabato.

Chairman Lazarus asked if there was any discussion on this particular motion and what they were doing.

Mr. Prince referred to the $18 million and asked if that was anything they could possibly use for services. Not just public safety.

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Chairman Lazarus said currently the motion on the floor was $23 million plus growth up to $25 million for the construction of I-73. That was what they were currently talking about. They had a motion and a second. **A vote was held.**

Yea	Nay
Vaught	Loftus
Hardee	Servant
Crawford	
Prince	
Lazarus	
Worley	
Howard	
Phillips	
DiSabato	
Allen	

The motion to amend passed ten to two.

Chairman Lazarus went back to the main motion as amended.

Mr. Prince asked him to state the main motion.

Chairman Lazarus stated Resolution R-82-18 dedicating $23 million plus growth up to $25 million of the hospitality fee annually to construct the Horry County section of I-73. **A vote was held.**

Yea	Nay
Vaught	Loftus
Hardee	Servant
Crawford	
Prince	
Lazarus	
Worley	
Howard	
Phillips	
DiSabato	
Allen	

The main motion as amended passed ten to two.

Resolution R-83-18 directing staff to create a comprehensive road plan using the uncommitted 1.5% hospitality fee revenue. **Mr. Vaught moved to approve, seconded by Mr. Hardee. A vote was held.**

Yea	Nay
	Vaught
	Hardee
	Crawford
	Prince
	Loftus
	Lazarus
	Servant
	Worley
	Howard
	Phillips
	DiSabato
	Allen

The motion failed twelve to zero.

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Resolution R-84-18 directing staff to create a plan for public safety and roads in the FY 2020 budget using uncommitted 1.5% hospitality fee revenue. **Mr. DiSabato moved to approve, seconded by Mr. Howard. Mr. DiSabato moved to amend to direct staff to create a plan for public safety utilizing $18 million of the uncommitted 1.5% hospitality fee revenue in accordance with existing law and future growth beyond the $25 million allocated in Resolution R-82-18, seconded by Mr. Vaught. A vote was held.**

Yea	Nay
Vaught	Loftus
Hardee	Servant
Crawford	
Prince	
Lazarus	
Worley	
Howard	
Phillips	
DiSabato	
Allen	

The motion to amend passed ten to two.

A vote was held on the main motion as amended.

Yea	Nay
Vaught	Loftus
Hardee	Servant
Crawford	
Prince	
Lazarus	
Worley	
Howard	
Phillips	
DiSabato	
Allen	

The main motion as amended passed ten to two.

A five minute break was held.

Chairman Lazarus called the meeting back to order.

Staff Presentation on Advisory Referendum Chris Eldridge

Discussion Items:

Resolution R-80-18 calling for the Horry County Election Commission to conduct a county-wide advisory referendum to be placed on the 2018 General Election ballot in November on the question of whether the electors of Horry County are in favor of increased *ad valorem* property taxes to pay for additional police, emergency medical services, Sheriff's Office and E-911 personnel, equipment and facilities, and increased salaries for such personnel (10 mill increase). **Mr. Servant moved to approve, seconded by Mr. Howard. Mr. Servant stated that with the events that had just unfolded he moved to table Resolution R-80-18, seconded by Mr. DiSabato. The motion was unanimously passed.**

Resolution R-81-18 calling for the Horry County Election Commission to conduct an advisory referendum within the unincorporated area of the county to be placed on the 2018 General Election ballot in November on the question of whether

the electors of Horry County are in favor of increased *ad valorem* property taxes to pay for additional fire safety personnel and facilities, and increased salaries for such personnel (9.5 mill increase). **Mr. Servant moved to approve, seconded by Mr. DiSabato. Mr. Servant moved to table Resolution R-81-18, seconded by Mr. Loftus. The motion was unanimously passed.**

Ordinance 74-18 amending Ordinance 25-18 to provide for an amendment to the Treasurer and Clerk of Court budgets in the General Fund. **Mr. Vaught moved to approve, seconded by Mr. Phillips.** Mr. Powell stated that the ordinance before them would increase the head count in the county by two positions. One position in the Clerk of Court's office and one position in the Treasurer's office. In the Clerk of Court's office they normally set the personnel estimate in around January. There had been a number of senior employees who retired at the end of the TERI program, a deferred retirement program that the state had, that ended on June 30th. As a result of that there had been some pretty significant salary savings that had emerged in the Clerk of Court's budget. This would basically use her existing appropriation. There was approximately $45,000 they believed was available that would be able to afford one additional administrative assistant. She had requested three in the budget process. On the Treasurer's side they had had a change that related to the processing of Certified Mail. As a result of that they were anticipating savings. They had set the budget for the postage budget which was budgeted centrally at $856,000 and based on where they finished the past year they believed they could comfortably reduce that amount by $49,000 and fund one additional administrative assistant in the Treasurer's office.

Mr. Servant said that he wanted to make something very clear. Being a fiscal conservative and being for adding positions to the Treasurer's office, the Veteran's Affairs office, and the Clerk of Court's office was not an inconsistent position. You could be for both. Mr. Vaught made a proposal two meetings ago to use fund savings to pay for these extra positions. Instead of taking the easy way out they needed to start digging deeper and looking for creative ways to cut waste if they planned to add more to the budget. They had to stop kicking the can down the road. This was exactly why he proposed the following budget amendment that cut the budget while adding more to it in these departments without dipping into fund savings. He respectfully asked that his fellow Councilmen join him in supporting these two amendments because it did not affect fund savings and it did not affect the bottom line. It was a perfect example of finding ways to cut the budget and finding efficiencies in the budget and adding more positions to these much needed departments.

Mr. Howard moved to amend to separate the two so they could vote separate because they were two different entities. It was not apples for apples so he would like to amend that to vote separately.

Chairman Lazarus asked Mr. Carotti if that would create another ordinance. Mr. Carotti said the motion technically was to divide the question so that if it was voted up by a majority vote, then you would take the Treasurer on the one hand and vote it up or down and then you would take the Clerk of Court and vote it up or down. That would be in compliance with Robert's Rules of Order.

Mr. Phillips seconded Mr. Howard's motion.

Mr. Servant said he wanted to make clear that they were not using fund savings. They were reducing budget amounts in departments and it was a net impact of zero to the bottom line.

Mr. Howard said he understood that but the savings that they should have seen last year in the postage, they should have saved that anyhow and go forward looking for savings. Like Mr. Servant had always said, they needed to look in every department for savings.

Mr. Servant asked Mr. Spivey what the savings were in the postage budget for the Treasurer's office.

Mr. Spivey said the postage budget was collective. It was in the general area and was used by multiple departments. The Treasurer was a large user of that. It was $49,000 from FY17 spending to FY18 spending.

Mr. Servant asked him if in his opinion was that attributable to electronical filings that the Treasurer's office was currently doing.

Mr. Spivey said that was a major contributor to that savings. Yes.

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Mr. Servant asked in the current FY budget did they have the same postage amount budgeted as last year.

Mr. Spivey said we had the same amount budgeted as last year. Yes.

Mr. Servant said meaning they could reduce the postage budget by $49,000 to hire this position with no net impact to the bottom line of the budget.

Mr. Spivey said they felt comfortable in indicating that they could reduce that budget. It still gave them some amount over what last year's spending level was to deal with either increased volume or the possibility with higher gas prices that there could be a surcharge added at some point like they had two years ago. They felt like there was capacity there.

Mr. Vaught said he would like to hear the reasons why they were separating them out. They had been fully justified by Mr. Servant and he would like to understand the reasons why they would be splitting theses out because basically it was the same issue. Both savings had been justified in both departments and he saw no sense in splitting them out.

Mr. Howard said he would like to separate them because they were two different entities and the Treasurer was trying to add a position and the postage was in general fund not in the Treasurer's budget. The Clerk of Court was a no brainer basically. Their money was in their budget and they were adding a position so there was no conflict whatsoever with the budget. Again he was all for both of them but let's use monies that they had in-house. Let's not create new budgets or add to the budgets monies they didn't have. This would take nine votes and he wanted to make sure that each one of them had their respect to the votes that were cast.

Mr. Crawford said he thought this was a good way to fund these position. They didn't have to go into the fund balance which was something they would do in the event of a hurricane so with them going into hurricane season utilizing this method to fund these positions worked better. Also, when they talked about the reserve fund those dollars were not reoccurring so this way they avoided a potential tax increase in the future so he would encourage everybody to vote for it.

Mr. Vaught sked Mr. Spivey at whose insistence was it that they go to the new form of postage. Who requested that change?

Mr. Spivey said he thought it originated in the Treasurer's office.

Mr. Vaught asked if the Treasurer was the primary user of that function of the postage.

Mr. Spivey said that most of our postage was tax related. The Clerk of Court's office was a heavy user as well but indeed.

A vote was held on dividing the question.

Yea	Nay
Loftus	Vaught
Lazarus	Hardee
Worley	Crawford
Howard	Prince
Phillips	Servant
DiSabato	Allen

The motion failed six to six.

A vote was held on the main motion as presented.

Yea	Nay
Vaught	
Hardee	
Crawford	
Prince	
Loftus	
Lazarus	
Servant	
Worley	
Howard	
Phillips	
DiSabato	
Allen	

The motion passed twelve to zero.

Ordinance 75-18 amending Ordinance 25-18 to provide for an amendment to the County Council and Veterans Affairs budget in the General Fund. **Mr. Servant moved to approve, seconded by Mr. DiSabato.** Mr. Servant said this ordinance was for a much needed department in the Veteran's Affairs department of Horry County who serviced the veterans who fought in the military. The way he came up with the funding mechanism for this ordinance was to use their community benefit fund to fund a much needed position in the county and he couldn't think of a better community benefit than servicing the veterans of Horry County.

Mr. Worley said he agreed with Mr. Servant that they should do this. They should have done it in the budget but he disagreed with him in where it needed to come from. He was saying that it would come from the community benefit fund and he thought they should just take it out of fund balance. **Mr. Worley moved to take the funds out of the fund balance, seconded by Mr. Prince.**

Mr. Servant said this was exactly what they had been doing in the budgets year after year and they back themselves into a tax increase. That was the exact reason why Mr. Vaught's proposal failed two weeks prior because they had to get more creative in the way they were funding these positions and they had to find ways to cut out the waste, create efficiency, and get rid of reckless spending. He thought that he had always been opposed to the community benefit fund but in this case he was for it in that they were going to be able to provide a great community benefit with serving the veterans and servicing them in the Veteran's Affairs department.

Chairman Lazarus said why didn't someone move to move the $240,000 community benefit funds back into the general fund and then they would have the excess money to pay for this position and several others and do away with the community benefit fund. Mr. Servant said he would second that motion. Chairman Lazarus said he couldn't make the motion.

Mr. Servant moved to move the $250,000 community benefit funds back into the general fund. The motion failed for lack of a second.

Mr. Crawford said they were going into hurricane season and they use the reserve fund for hurricanes when there was an emergency so it was not a good idea to keep going back into that fund. Hurricane season was on the way. The funds were non-recurring.

Mr. DiSabato said he thought it was fiscally irresponsible for them to use fund balance in order to fund a recurring need so he would be against taking the money for this position from the fund balance. He was fully in support of using the community benefit funds to do that.

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Mr. Howard asked how they would continue to fund this position for the next year. Would that be something they would work into the new budget for the next cycle?

Chairman Lazarus said they would work it into the new budget or take it out of the community benefit funds again. Growth may take care of it but that was unlikely.

Mr. Howard asked if they should amend it to say it came out continuously from the community benefit fund.

Mr. DiSabato said that was a motion that they could consider.

Chairman Lazarus said they couldn't bind future Council. As Mr. Worley let them know, there would be someone else sitting in his seat and he may not want to use that money for that so he couldn't bind him for that.

Mr. DiSabato asked if they could make a motion to reduce the community benefit fund by $3,400 annually and then allocate those funds to the general fund.

Chairman Lazarus said that was a three reading budget amendment ordinance.

Mr. Eldridge said it was budgeted every year.

Chairman Lazarus said the best thing to do... He went over and spent time at the Veteran's Affairs office and Mr. Elvis was doing an awesome job. The other thing was he was probably serving just as many people out of Marion County through the VA as he was Horry County citizens. They were doing a tremendous job. Their computers were not working properly. They got those working so they could at least get online and do the paperwork and the people didn't have to wait forever to do that. They needed this receptionist. They needed somebody to answer the phone. They had people that had other reasons why they were going to be out. It would limit their staff and their volume call was extremely high. If they were going to use it, it was a great use for it. He didn't particularly care for the way they were doing it out of community benefit fund but he was not going to vote against it because he knew how much it was needed. He would leave it to them to figure out the next year.

Mr. Crawford asked Mr. Eldridge if they went to the reserve funds in the event of a hurricane.

Mr. Eldridge said yes or in any kind of emergency.

Mr. Crawford said he just wanted to clarify that.

Chairman Lazarus said that if they had not had the reserve funds the previous year during the floods they would have had to borrow money to make payroll. Fortunately they had the reserves to pay for the disasters that they had on hand and didn't have to borrow money and pay more interest so point taken.

A vote was held on the amendment to take the money out of the fund balance.

Yea	Nay
Vaught	Crawford
Hardee	Lazarus
Prince	Servant
Loftus	DiSabato
Worley	
Howard	
Phillips	
Allen	

The motion to amend passed eight to four.

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A vote was held on the main motion as amended.

Yea	Nay
Vaught	Servant
Hardee	DiSabato
Crawford	
Prince	
Loftus	
Lazarus	
Worley	
Howard	
Phillips	
Allen	

The main motion as amended passed ten to two.

Council Comments

Mr. Worley moved to have staff prepare a resolution calling for the Horry County Election Commission to conduct a county wide advisory referendum to be placed on the 2018 general election ballot in November questioning whether the electors of Horry County were in favor of imposing an impact fee on new residential construction to pay for growth.

Chairman Lazarus told him it couldn't be a motion but he would need it on the August 14th agenda since it wasn't advertised. He would basically be asking staff to do that on his benefit. If he supplied that to him he would make sure that it was on the August 14th agenda. If it passed on August 14th, it could be walked over to Ms. Martin to be put on the ballot for the November referendum.

Mr. Worley asked if that gave them time.

Chairman Lazarus said that August 15th would be the deadline. He asked Mr. Carotti to prepare it.

Executive Session: The receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege. **Mr. DiSabato moved to enter into executive session, seconded by Mr. Vaught. Mr. Vaught moved to exit executive session, seconded by Mr. Loftus.** Mr. Carotti said that while in executive session Council received legal advice related to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege. While in executive session no decisions were made and no votes were taken.

EXECUTIVE SESSION:

ADJOURNMENT: With no further business, Mr. DiSabato moved to adjourn at approximately 5:09 p.m. and it was seconded. The motion was unanimously passed.

HORRY COUNTY COUNCIL

Mark Lazarus, Chairman

Harold G. Worley, District 1
Dennis DiSabato, District 3
Tyler Servant, District 5
Harold Phillips, District 7
W. Paul Prince, District 9
Al Allen, District 11

Bill Howard, District 2
Gary Loftus, District 4
Cam Crawford, District 6
Johnny Vaught, District 8
Danny Hardee, District 10

Attest:

Patricia S. Hartley, Clerk to Council

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY)	CIVIL ACTION NO.: 2019-CP-26-01732
City of Myrtle Beach)	
)	
For Itself and a Class of Similarly)	
Situated Plaintiffs,)	**DEFENDANT'S ANSWER AND**
)	**COUNTERCLAIMS**
Plaintiff,)	
)	
vs.)	
)	
Horry County,)	
)	
Defendant.)	
)	

The Defendant, answering the Complaint of the City of Myrtle Beach (referred hereinafter as the "City"), would respectfully show and allege unto this Honorable Court as follows:

FIRST DEFENSE

1. Each and every allegation in the Complaint which is not hereinafter admitted, modified or qualified is denied and strict proof demanded thereof.

2. To the extent Paragraph 1 of the Complaint contains factual allegations, they are generic and/or hypothetical, are not related to the City or the City's claims, improperly generalize complex and diverse statutory arrangements involving numerous entities not party to this case, and are so general that Defendant is unable to ascertain the factual circumstances purportedly referenced, or to formulate a response. To the extent the City's allegations reference, describe or depend upon the statutes which are not attached to the Complaint or other legal matters, Defendant craves reference to the statutes and applicable laws for their content, and denies any inconsistent allegations or characterizations. In addition, Paragraph 1 contains impertinent and scandalous matters which should be stricken. As a result, Defendant denies the allegations in Paragraph 1.

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3. Paragraph 2 of the Complaint sets forth the City's legal conclusions to which no response is required. To the extent that a response is required, Defendant denies that a class action is appropriate and denies the allegations in Paragraph 2.

4. The allegations of Paragraph 3 are admitted.

5. In answering Paragraph 4, it is admitted that the Defendant is a body politic and corporate and political subdivision of the State of South Carolina.

6. Paragraph 5 of the Complaint sets forth the City's legal conclusions to which no response is required. To the extent the City's allegations reference, describe or depend upon the statutes which are not attached to the Complaint or other legal matters, Defendant craves reference to the statutes and applicable laws statutes for their content, and denies any inconsistent allegations or characterizations.

7. Paragraph 6 of the Complaint sets forth the City's legal conclusions to which no response is required. To the extent the City's allegations reference, describe or depend upon the statutes which are not attached to the Complaint or other legal matters, Defendant craves reference to the statutes and applicable laws statutes for their content, and denies any inconsistent allegations or characterizations.

8. Paragraph 7 of the Complaint sets forth the City's legal conclusions to which no response is required. To the extent that a response is required, Defendant denies that a class action is appropriate and denies the allegations in Paragraph 7.

9. Paragraph 8 of the Complaint sets forth the City's legal conclusions to which no response is required. To the extent that a response is required, Defendant denies that a class action is appropriate and denies the allegations in Paragraph 8.

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10. The allegations contained in Paragraph 9 of the Complaint set forth the City's legal contentions, all of which are denied, including subparagraphs a - e. Paragraph 9 of the Complaint is based on a false premise in that it presumes, erroneously, that Defendant's actions were "illegal." To the extent that a further response is required, Defendant denies that a class action is appropriate and denies the allegations and implications in Paragraph 9, including subparagraphs a - e.

11. The allegations contained in Paragraph 10 of the Complaint set forth the City's legal contentions, all of which are denied, including subparagraphs a - c. Paragraph 10 of the Complaint is based on a false premise in that it presumes, erroneously, that Defendant's actions were "illegal." To the extent that a further response is required, Defendant denies that a class action is appropriate and denies the allegations and implications in Paragraph 10, including subparagraphs a - c.

12. Paragraph 11 of the Complaint sets forth legal conclusions to which no response is required. Paragraph 11 is based on a false premise in that it presumes, erroneously, that Defendant's actions were "illegal" and in that it asserts that the City, and others listed in Paragraph 7, "paid the illegal fee." To the extent that a further response is required, Defendant denies that a class action is appropriate and denies the allegations in Paragraph 11.

13. Paragraph 12 of the Complaint sets forth legal conclusions to which no response is required. The City's allegations that it possesses sufficient knowledge and involvement in the matter to fairly and adequately protect the interests of each member of the Class are specifically denied. The City's legal action is solely in its own self-interest and is specifically contrary to and in conflict with the interests of the parties listed in Paragraph 7. Moreover, the Complaint demonstrates a fundamental lack of knowledge as to the facts, circumstances, and law. The City misunderstands, mischaracterizes, and misstates the facts and circumstances alleged in its

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Complaint. Furthermore, the City ignores South Carolina state law in all aspects of its allegations. To the extent that a further response is required, Defendant denies that a class action is appropriate and denies the allegations in Paragraph 12.

14. Paragraph 13 of the Complaint sets forth legal conclusions to which no response is required. To the extent that a further response is required, Defendant denies that a class action is appropriate and denies the allegations in Paragraph 13.

15. To the extent Paragraph 14 of the Complaint contains factual allegations, they are generic and/or hypothetical, are irrelevant to the City or the City's claims, improperly generalize complex and diverse statutory arrangements involving numerous entities not party to this case, and are so general that Defendant is unable to ascertain the factual circumstances purportedly referenced, or to formulate a response. To the extent the City's allegations reference, describe or depend upon the RIDE Report, Defendant craves reference to the RIDE Report's specific content, in full, and denies any inconsistent allegations or general characterizations of the RIDE Report. Moreover, Defendant asserts that the RIDE Report is irrelevant to the subsequent actions of Defendant and South Carolina's General Assembly. Defendant denies the allegations in Paragraph 14.

16. To the extent Paragraph 15 of the Complaint contains factual allegations, they are generic and/or hypothetical, are not related to the City or the City's claims, improperly generalize complex and diverse statutory arrangements involving numerous entities not party to this case, and are so general that Defendant is unable to ascertain the factual circumstances purportedly referenced, or to formulate a response. To the extent the City's allegations reference, describe or depend upon Ordinance No. 105-96, Defendant craves reference to the content of Ordinance No.

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105-96, and denies any inconsistent allegations, hypotheses, or characterizations. Defendant denies the allegations in Paragraph 15.

17. To the extent Paragraph 16 of the Complaint contains factual allegations, they are generic and/or hypothetical, are not related to the City or the City's claims, improperly generalize complex and diverse statutory arrangements involving numerous entities not party to this case, and are so general that Defendant is unable to ascertain the factual circumstances purportedly referenced, or to formulate a response. To the extent the City's allegations reference, describe or depend upon Ordinance No. 105-96, Defendant craves reference to the content of Ordinance No. 105-96, and denies any inconsistent allegations, hypotheses, or characterizations. Defendant denies the allegations in Paragraph 16.

18. To the extent Paragraph 17 of the Complaint contains factual allegations, they are generic and/or hypothetical, are not related to the City or the City's claims, improperly generalize complex and diverse statutory arrangements involving numerous entities not party to this case, and are so general that Defendant is unable to ascertain the factual circumstances purportedly referenced, or to formulate a response. To the extent the City's allegations reference, describe or depend upon Ordinance No. 105-96, Defendant craves reference to the content of Ordinance No. 105-96, and denies any inconsistent allegations, hypotheses, or characterizations. Defendant denies the allegations in Paragraph 17.

19. The Defendant admits to Paragraph 18.

20. To the extent Paragraph 19 of the Complaint contains factual allegations, they are generic and/or hypothetical, are not related to the City or the City's claims, improperly generalize complex and diverse statutory arrangements involving numerous entities not party to this case, and are so general that Defendant is unable to ascertain the factual circumstances purportedly

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referenced, or to formulate a response. To the extent the City's allegations reference, describe or depend upon City of Myrtle Beach Resolution dated October 8, 1996 , Defendant craves reference to the content of said Resolution, and denies any inconsistent allegations, hypotheses, or characterizations, including any allegations as to what the City Council of Myrtle Beach "understood" at the time of the passage of said Resolution. Defendant denies the allegations in Paragraph 19.

21. To the extent that Ordinance No. 105-96 was properly enacted on October 15, 1996, following third and final reading, and recorded in the office of the Register of Mesne Conveyances in Book 1895, Page 838, the Defendant admits to Paragraph 20. All other allegations in Paragraph 20 are denied. To the extent the City's allegations reference, describe or depend upon Ordinance No. 105-96, Defendant craves reference to the content of Ordinance No. 105-96, and specifically denies any inconsistent allegations or characterizations. Defendant further states that the reference to Exhibit A is incorrect.

22. To the extent that Ordinance No. 7-97 was properly enacted on February 4, 1997, following third and final reading, and recorded in the office of the Register of Mesne Conveyances in Book 1922, Page 1463, the Defendant admits to Paragraph 21. All other allegations in Paragraph 21 are denied. To the extent the City's allegations reference, describe or depend upon Ordinance No. 7-97 and Ordinance 105-96, Defendant craves reference to the content of said ordinances, and specifically denies any inconsistent allegations or characterizations, including the allegations as to the purpose of Ordinance No. 7-97. Moreover, the Defendant specifically denies any implication that "the Fee Use Provision and the Sunset Provision" being retained in Ordinance No. 7-97 had any force or practical effect as to future actions of the Defendant.

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23. To the extent that an application was submitted to the South Carolina Transportation Infrastructure Bank on or about October 15, 1997, the Defendant admits to Paragraph. All other allegations in Paragraph 22 are denied. To the extent the City's allegations reference, describe or depend upon said application, Defendant craves reference to the content of said application, and specifically denies any inconsistent allegations or characterizations, including the characterizations and implications that recommendations had any force of law or practical effect as to future actions of the Defendant.

24. To the extent that Resolution Number 224-97 was properly enacted on November 18, 1997, the Defendant admits to Paragraph 23. All other allegations in Paragraph 23 are denied. To the extent the City's allegations reference, describe or depend upon Resolution Number 224-97, Defendant craves reference to the content of said Resolution, and specifically denies any inconsistent allegations or characterizations, including the allegations as to the recitals of said Resolution.

25. To the extent that an amended application was submitted to the South Carolina Transportation Infrastructure Bank on or about November 20, 1997, the Defendant admits to Paragraph 24. All other allegations in Paragraph 24 are denied. To the extent the City's allegations reference, describe or depend upon said amended application, Defendant craves reference to the content of said application, and specifically denies any inconsistent allegations or characterizations.

26. To the extent that the Defendant entered into a loan agreement with the South Carolina Transportation Infrastructure Bank on or about March 10, 1998, the Defendant admits to Paragraph 25. All other allegations in Paragraph 25 are denied. To the extent the City's allegations

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reference, describe or depend upon said loan agreement, Defendant craves reference to the content of said loan agreement, and specifically denies any inconsistent allegations or characterizations.

27. To the extent that the Defendant entered into a loan agreement with the South Carolina Transportation Infrastructure Bank on or about April 21, 1998, the Defendant admits to Paragraph 26. All other allegations in Paragraph 26 are denied, including, specifically, that the loan amount was in the approximate amount is $247.6 Million. To the extent the City's allegations reference, describe or depend upon said loan agreement, Defendant craves reference to the content of said loan agreement, and specifically denies any inconsistent allegations or characterizations.

28. To the extent that the Defendant properly enacted Ordinance No. 7-97, Ordinance No. 76-97, Ordinance No. 80-01, and Ordinance No. 11-04, the Defendant admits to Paragraph 27. All other allegations in Paragraph 27 are denied. To the extent the City's allegations reference, describe or depend upon said ordinances, Defendant craves reference to the content of said ordinances, and specifically denies any inconsistent allegations or characterizations. As to the City's specific allegation in Paragraph 27 that the provisions of Ordinance No. 105-96 "pertinent to the instant complaint" are not amended by Ordinance No. 11-04, Defendant craves reference to the following section of Ordinance No. 11-04, which states:

> The Hospitality Fee Ordinance, Number 105-96, as heretofore amended, including the one and one-half percent (1.5%) portion of the Hospitality Fee deposited into the Road Special Revenue Fund, hereby is extended for an additional period of not to exceed five (5) years, which extension expires January 1, 2022.

Thus, Horry County extended the sunset provision fifteen years ago, on April 20, 2004.

29. To the extent that the Defendant properly enacted Ordinance No. 93-16 on December 6, 2016, the Defendant admits to Paragraph 28. All other allegations in Paragraph 28 are denied. To the extent the City's allegations reference, describe or depend upon said Ordinance No. 93-16, Defendant craves reference to the content of Ordinance No. 93-16, and specifically

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denies any inconsistent allegations or characterizations. Defendant specifically denies any allegation or implication that Defendant was required by state law or its own ordinances that it obtain the City's approval or consent before enacting Ordinance No. 93-16. Moreover, Defendant specifically denies any allegation that the Defendant did not seek support of the City or other municipalities prior to enactment of Ordinance No. 11-04 or Ordinance No. 93-16.

30. To the extent that the Defendant properly enacted Ordinance No. 32-17 on May 2, 2017, the Defendant admits to Paragraph 29. All other allegations in Paragraph 29 are denied. To the extent the City's allegations reference, describe or depend upon said Ordinance No. 32-17, Defendant craves reference to the content of Ordinance No. 32-17, and specifically denies any inconsistent allegations or characterizations. Defendant specifically denies any allegation or implication that Defendant was required by state law or its own ordinances that it obtain the City's consent before enacting Ordinance No. 32-17. Moreover, Defendant specifically denies any allegation that the Defendant did not seek support of the City or other municipalities prior to enactment of Ordinance No. 32-17.

31. The Defendant admits Paragraph 30.

32. To the extent that Resolution Number R-82-18 was properly enacted on July 24, 2018, the Defendant admits to Paragraph 31. All other allegations in Paragraph 31 are denied. To the extent the City's allegations reference, describe or depend upon Resolution Number R-82-18, Defendant craves reference to the content of said resolution, and specifically denies any inconsistent allegations, characterizations, or alleged motivations of County Council.

33. To the extent that Resolution Number R-84-18 was properly enacted on July 24, 2018, the Defendant admits to Paragraph 32. All other allegations in Paragraph 32 are denied. To the extent the City's allegations reference, describe or depend upon Resolution Number R-84-18,

Defendant craves reference to the content of said resolution, and specifically denies any inconsistent allegations, characterizations, or alleged motivations of County Council.

34. Defendant denies the allegations in Paragraph 33.

35. Defendant admits the allegations in Paragraph 34.

36. To the extent Paragraph 35 of the Complaint contains factual allegations, the stated estimates are irrelevant to the City or the City's claims, improperly generalize complex and diverse statutory arrangements involving numerous entities not party to this action, and are so general that Defendant is unable to ascertain the factual circumstances purportedly referenced, or to formulate a response. To the extent the City's allegations reference, describe or depend upon the minutes of County Council, Defendant craves reference to the specific content of said minutes, in full, and denies any inconsistent allegations or general characterizations of the County Council minutes. Defendant denies the allegations in Paragraph 35.

37. Defendant denies the allegations in Paragraph 36. Defendant specifically denies any implied requirement that it obtain the City's consent before enacting or amending any of the county ordinances references in Complaint.

38. Upon information and belief, Defendant admits the allegations in Paragraph 37.

39. With respect to Paragraph 38, Defendant realleges and incorporates, by reference, its aforesaid responses to the Complaint.

40. The allegations contained in Paragraph 39 of the Complaint, including subparagraphs a., b., c. and d., are statements of the City's legal contentions. Defendant disputes those contentions. To the extent a response is required, Defendant craves reference to the provisions of Sections 15-53-10 to 140 , *et seq.* of the Code of Laws for the State of South Carolina, and denies all allegations of Paragraph 39 that are inconsistent therewith. To the extent Paragraph

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39, including subparagraphs a., b., c. and d., contains factual allegations, those allegations are denied. To the extent the City's allegations reference, describe or depend upon the contents of documents, ordinances, or statutes, Defendant craves reference to those documents for their contents, and denies any inconsistent allegations or characterizations.

41. The allegations contained in Paragraph 40 of the Complaint set forth the City's legal contentions to which no response is required. To the extent a response is required, the allegations are denied. To the extent the City's allegations reference, describe or depend upon the contents of documents, ordinances, or statutes, Defendant craves reference to those documents, ordinances, or statutes, in full, for their contents, and denies any inconsistent allegations or characterizations. Defendant specifically denies that the City or alleged proposed class members are entitled to any relief for there is no legal basis for such.

42. With respect to Paragraph 41 of the Complaint, Defendant realleges and incorporates by reference Paragraphs 1 through 41 of this Answer as if fully restated.

43. The allegations contained in Paragraph 42 of the Complaint set forth the City's legal contentions, all of which are denied. To the extent Paragraph 42 contains factual allegations, Defendant denies the allegations of Paragraph 42.

44. The allegations contained in Paragraph 43 of the Complaint set forth the City's legal contentions, all of which are denied. To the extent Paragraph 43 contains factual allegations, Defendant denies the allegations of Paragraph 43.

45. The allegations contained in Paragraph 44 of the Complaint set forth the City's legal contentions, all of which are denied. To the extent Paragraph 44 contains factual allegations, Defendant denies the allegations of Paragraph 44.

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46. The allegations contained in Paragraph 45 of the Complaint, including subparagraphs a. and b., set forth the City's legal contentions to which no response is required. To the extent a response is required, the allegations are denied. To the extent the City's allegations reference, describe or depend upon the contents of documents, ordinances, or statutes, Defendant craves reference to those documents, ordinances, or statutes, in full, for their contents, and denies any inconsistent allegations or characterizations. Defendant specifically denies that the City or proposed class members are entitled to any relief for there is no legal basis for such.

47. With respect to Paragraph 46 of the Complaint, Defendant realleges and incorporates by reference Paragraphs 1 through 46 of this Answer as if fully restated

48. The allegations contained in Paragraph 47 of the Complaint set forth the City's legal contentions, all of which are denied, and any benefit to the Defendant, is, in equal measure, a benefit to the municipalities, including the City. To the extent Paragraph 47 contains factual allegations, Defendant denies the allegations of Paragraph 47.

49. The allegations contained in Paragraph 48 of the Complaint set forth the City's legal contentions to which no response is required. To the extent a response is required, the allegations are denied.

50. The allegations contained in Paragraph 49 of the Complaint set forth the City's legal contentions to which no response is required. To the extent a response is required, the allegations are denied. To the extent Paragraph 49 contains factual allegations, they are hypothetical, are not related to the City or the City's claims, improperly generalize complex and diverse statutory arrangements involving numerous entities not party to this action, and are so general that Defendant is unable to ascertain the factual circumstances purportedly referenced, or to formulate a response.

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51. The allegations contained in Paragraph 50 of the Complaint set forth the City's legal contentions to which no response is required. To the extent a response is required, the allegations are denied.

52. The allegations contained in Paragraph 51 of the Complaint set forth the City's legal contentions to which no response is required. To the extent a response is required, the allegations are denied. Defendant specifically denies that the City, or proposed class members, are entitled to any relief for there is no legal basis for such.

53. With respect to Paragraph 52 of the Complaint, Defendant realleges and incorporates by reference Paragraphs 1 through 52 of this Answer as if fully restated

54. Defendant denies the allegations in Paragraph 53 of the Complaint.

55. The allegations contained in Paragraph 54 of the Complaint set forth the City's legal contentions to which no response is required. To the extent Paragraph 54 contains factual allegations, they are hypothetical, are not related to the City or the City's claims, improperly generalize complex and diverse statutory arrangements involving numerous entities not party to this case, and are so general that Defendant is unable to ascertain the factual circumstances purportedly referenced, or to formulate a response. To the extent the City's allegations reference, describe or depend upon the statutes which are not attached to the complaint or other legal matters, Defendant craves reference to the statutes and applicable laws for their content, and denies any inconsistent allegations or characterizations. Paragraph 54 contains impertinent and scandalous matters which should be stricken. Defendant denies the allegations in Paragraph 54 of the Complaint.

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56. The allegations contained in Paragraph 55 of the Complaint set forth the City's legal contentions to which no response is required. To the extent a response is required, the allegations are denied.

57. The allegations contained in Paragraph 56 of the Complaint set forth the City's legal contentions to which no response is required. To the extent a response is required, the allegations are denied. Defendant specifically denies that the City or proposed class members are entitled to any relief, including the creation of a constructive trust or "common fund."

58. The City implies, through its allegations in Paragraphs 16 and 19 of the Complaint, that a the comprehensive road plan adopted by the County was intended to be "in concert with the municipalities of the County" and that thus the Defendant is somehow bound to seek future consent from municipalities as to the length, amount or use of the Hospitality Fee put in place by and through Ordinance No. 105-96. This is a misreading and mischaracterization of said Ordinance and of the law.

59. As the City admits in Paragraph 19 of the Complaint, that several entities, including the South Carolina Department of Transportation, the Horry County Board of Education, and others passed resolutions in support of the RIDE Committee Report whereby the entities strongly encouraged and recommended that Horry County pass an ordinance implementing a Hospitality Fee.

60. Despite the allegations made in Paragraphs 28, 29, 36, 39, and 54, which are specifically denied, no requirement exists at law, nor did any requirement exist in 1996 or at any other time, whereby Horry County was required to obtain or maintain any approval or consent of any entity, including the Plaintiff, in order to impose and implement the Hospitality Fee or ordinances related to or amending the Hospitality Fee.

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61. The Defendant either fundamentally misunderstands or purposefully misconstrues any support provided in 1996 for Ordinance No. 105-06. Even if, at one time, the Defendant sought, and obtained support for Ordinance No. 105-06, the Plaintiff fails to adequately allege that there was, at any time, a requirement under state law, Ordinance No. 105-06, or otherwise, whereby the Defendant had to seek out or obtain any consent or approval of any entity, including the Defendant.

62. Upon information and belief, at no time has the Plaintiff passed a resolution or ordinance referencing, repealing or removing its strong and unanimous support to Horry County to enact ordinances as stated in the October 8, 1996 resolution.

63. Even though the ordinance was amended on February 4, 1997, August 5, 1997, June 19, 2001, April 20, 2004, December 6, 2016, and May 2, 2017, until the time of this lawsuit, upon information and belief, the Plaintiff took no action to assert its alleged rights to consent to said amendments, or to challenge or otherwise claim that amendments to Ordinance No. 105-96 required the consent of the City.

64. In its allegations, the City's mischaracterization of validly enacted ordinances improperly calls into question the proper actions taken by the Defendant regarding the sunset provisions of Ordinance No. 105-06. The City ignores the maxim that ordinances may be amended by and through subsequent ordinances. Through such amendments, any and all provisions of an ordinance, including a sunset provision, may be repealed, replaced or extended.

65. Now, after the Defendant has fostered a program that benefits the entire county for twenty two years, the City is incorrectly attempting, through this legal action, to call into question all actions taken by the Defendant, including actions taken to extend the sunset provision, which were properly enacted by the Defendant fifteen years ago.

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66. Upon information and belief, the City has amended its own ordinances by and through subsequent ordinances, yet the City alleges that the Defendant is precluded by state law or otherwise from doing the same.

67. In its allegations, the City characterizes itself as a victim that will be the proper entity to protect the rights of others. Yet, upon information and belief, the City has made these allegations so that it may bar the Defendant to continue to properly and effectively utilize the funds raised by the Hospitality Fee for the benefit of the entire County. Instead, in its insatiable desire for more money, the City has decided to roll the dice so that it may raise fees and taxes within the municipal limits of the City.

68. The City admits that it gave full and unanimous support to the Defendant to enact and implement a Hospitality Fee which has been in place and validly collected for over twenty two years.

69. The Defendant has at all times acted in good faith with the entire County in mind in its implementation and maintenance of the ordinances cited in the Complaint and the fees generated by said ordinances.

70. The City's allegations assert and imply that the Defendant has obtained a "windfall" and that the Defendant has received unjust enrichment to the detriment of the City and other municipalities by and through the Hospitality Fee. This is patently false, and calls into question the City's understanding of public funds. The funds collected by and through the Hospitality Fee, as in 1996, are and will be used under the statutory scheme set forth under state law by the South Carolina General Assembly. Moreover, all funds received have benefited and will continue to benefit the citizens and visitors of the County and all of its municipalities.

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71. The Defendant sought, and continues to seek, the support of the City and the other municipalities within Horry County in its efforts to improve the lives of all of the citizens of Horry County, and specifically, to obtain the support of the City in its properly enacted extension of Ordinance 105-96 and the Hospitality Fee.

72. The City cannot pick and choose what aspects of an ordinance, properly enacted by another political subdivision of the State, that it likes or does not like, and thereby legally challenge such ordinance through some misconstrued theory of consent and approval, which does not exist at law.

73. The City cannot, in its own interests, seek to nullify those proper actions of the Defendant by and through a claim that there is some alleged requirement that a right of consent or approval exists.

74. Upon information and belief, only when the City saw that it may use funds exclusively for the City did the City decide to litigate to try and force the County to acquiesce to the City's desire for more and more money.

75. The City's primary goal is to raise its state-mandated cap on fees it may charge its citizens and guests to the City so that the City may retain and use those funds for its own use.

76. The City seeks to thwart the long-standing state law provisions that allow for a governmental entity, in this case, the Defendant, to collect public funds for public benefit. Instead, the City seeks to keep and use such funds for uses limited to within its municipal boundaries.

77. Upon information and belief, the City's budget has increased significantly over the past several years.

78. The City's budgetary matters have been a cause of concern to the City for some time.

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79. By and through this lawsuit, the City is attempting to wrongfully force the Defendant to acquiesce to the City's demands for more funds.

80. The South Carolina General Assembly has capped the City's ability to tax its visitors and citizens within the City limits.

81. Now that the City has reached that cap, and to the detriment of the entire County and its municipalities, the City is now trying to obtain more money for its own use.

82. While the Defendant has worked to better the entire community, the City has apparently mismanaged its own budget, and now the City seeks to circumvent state law to shore up its own finances.

83. Instead of trying to work with the Defendant through the normal, correct political process to seek a resolution to best serve all citizens of the mutual communities, the City has decided to litigate its claims, which are based on incorrect theories of consent and approval of a political subdivision's valid actions.

84. This legal action is an attempt by the City to force the Defendant to give up its independent ability to legislate by passing and amending its own ordinances.

85. By and through this spurious legal challenge, the City is creating uncertainty and delay in the proper management of government. Moreover, the City, through this legal action, has increased the time, energy and cost of governmental affairs for all involved.

86. The City simply desires to funnel as much funds as it can directly to the City's coffers at the expense of the rest of the County and the County's smaller municipalities.

87. In response to the City's Prayer for Relief, Defendant denies that the City or any putative class member is entitled to any relief whatsoever, including, without limitation, that set forth in subparagraphs a – c.

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SECOND DEFENSE

88. The allegations of the First Defense are incorporated herein and made a part and parcel of this Second Defense.

89. The City fails to allege any state law or constitutional provision whereby the City's consent or approval was, or is, required for the Defendant to amend Ordinance No. 105-96.

90. Therefore, there is no justiciable question or fact or law at issue.

91. The Complaint fails to state facts sufficient to constitute a cause of action against the Defendant. Therefore, each of the City's claims should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

THIRD DEFENSE

92. The allegations of the First and Second Defenses are incorporated herein and made a part and parcel of this Third Defense.

93. By bringing this legal action, the City, without legal authority or standing, has requested that the Court amend and rewrite the Horry County ordinances.

94. The City may not exceed the authority granted to it by the South Carolina State Constitution and the South Carolina General Assembly.

95. The South Carolina State Constitution and the South Carolina General Assembly has not granted the City the authority to bring suit against political subdivisions for matters such as those alleged in the Complaint. Moreover, the purported class members do not have standing to sue a political subdivision of South Carolina for the matters alleged in the Complaint.

96. The City and/or any member of the purported class do not have standing to bring suit against the Defendant under the facts alleged, and therefore, the Complaint should be dismissed.

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FOURTH DEFENSE

97. The allegations of the First, Second, and Third Defenses are incorporated herein and made a part and parcel of this Fourth Defense.

98. The Defendant is organized under the Council-Administrator form of government as provided by Sections 4-9-20 and 4-9-610, et seq. of the Code of Laws for the State of South Carolina.

99. As a political subdivision of the State of South Carolina., the Defendant has certain powers conferred upon it by the South Carolina Constitution and state law.

100. All ordinances of the Defendant are duly considered and approved after three readings by Horry County Council and a public hearing.

101. The ordinances cited in the Complaint, including Ordinance No. 105-66, Ordinance No. 7-97, Ordinance No. 76-97, Ordinance No. 80-01, Ordinance No. 80-01, Ordinance No. 111-01, Ordinance No. 11-04, Ordinance No. 50-04, Ordinance No. 93-16, and Ordinance No. 32-17, were duly enacted after three readings and a public hearing.

102. All ordinances of the Defendant carry a presumption of validity and should not be disturbed.

103. The City fails to state any facts that the ordinances cited in the Complaint were not properly considered or enacted by the Defendant.

104. The City fails to allege any state law or constitutional provision whereby the ordinances cited in the Complaint are not valid.

105. The City fails to allege any facts, state law or constitutional provision whereby the Defendant must obtain any consent or approval of the City or any other entity before passage of any of the ordinances cited in the Complaint.

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106. Therefore, there is no justiciable question or fact or law at issue.

107. The Complaint fails to state facts sufficient to constitute a cause of action against the Defendant. Therefore, each of The City's claims should be dismissed.

FIFTH DEFENSE

108. The allegations of the First, Second, Third, and Fourth Defenses are incorporated herein and made a part and parcel of this Fifth Defense.

109. The Defendant fails to plead the essential elements of unjust enrichment, a cause of action also known as quantum meruit.

110. The City's allegations that an implied contract exists between the Defendant, the City, and any other party by and through the Hospitality Fee or the ordinance that created the Hospitality Fee is an incorrect reading of the law, and would create an absurd precedence whereby a government collecting a fee would thereby be considered to be in an implied contractual relationship with the fee payer.

111. Despite the allegations of the City, nothing about the Hospitality Fee is illegal.

112. The City has failed to state a prima facie case that an implied contract exists between the Defendant, the City, and any other party, including the putative class members.

113. The City has failed to state a prima facie case for breach of duty of good faith and fair dealing.

114. Therefore, City's Third and Fourth causes of action should be dismissed.

SIXTH DEFENSE

115. The allegations of the First, Second, Third, Fourth, and Fifth Defenses are incorporated herein and made a part and parcel of this Sixth Defense.

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116. Inasmuch as the claims made by the City are tort claims of actual or constructive fraud, abuse of confidence, and/or unconscionable conduct, the City's tort claims are barred by the economic loss doctrine.

SEVENTH DEFENSE

117. The allegations of the First, Second, Third, Fourth, Fifth, and Sixth Defenses are incorporated herein and made a part and parcel of this Seventh Defense.

118. Complaint fails to plead the essential elements of an entitlement to a declaratory judgment.

119. The City has failed to state a prima facie case for declaratory relief in that City failed to allege a substantial, direct, and legally protected present right or interest.

120. The City lacks standing to seek declaratory relief in that it has not alleged sufficient facts to fall within Sections 15-53-10, *et seq.*, of the Code of Laws for the State of South Carolina.

121. The City has not asserted a legal right and a denial of that right by Defendant. Therefore, a justiciable controversy does not exist in this case.

122. City has failed to state a cause of action for which declaratory relief may be granted. Therefore, City's request for declaratory relief should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

EIGHTH DEFENSE

123. The allegations of the First, Second, Third, Fourth, Fifth, Sixth, and Seventh Defenses are incorporated herein and made a part and parcel of this Eighth Defense.

124. The Complaint fails to plead the essential elements of a request for a preliminary or permanent injunction.

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125. Injunction is an extraordinary remedy that should not be granted where, as in this case, the City's right to a remedy under any legal or equitable theory is doubtful.

126. The City has not asserted a legal or equitable right of the City and a denial of that right by Defendant. Therefore, a justiciable controversy does not exist in this case.

127. There is no present or future justiciable controversy between the City and Defendant; therefore, the court lacks jurisdiction to grant injunctive relief.

128. The City has failed to establish an actual and substantial injury, or affirmative prospect thereof, and is not entitled to injunctive relief.

129. Through its own actions in not asserting any legal claim or equitable right for at least two years and for as many as fifteen years, the City has failed to establish that damages are immediate.

130. In accordance with the equitable maxim "he who seeks equity must do equity," the City is not entitled to equitable relief.

131. Therefore, the City's request for injunctive relief should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

NINTH DEFENSE

132. The allegations of the First, Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth and Defenses are incorporated herein and made a part and parcel of this Ninth Defense.

133. The City's claims are barred by the doctrines of waiver, acquiescence, ratification, or estoppel.

TENTH DEFENSE

134. The allegations of the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Defenses are incorporated herein and made a part and parcel of this Tenth Defense.

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135. The voluntary payment doctrine bars all claims of the City, and of any member of the purported class whose Hospitality Fees have been paid in part or in full.

ELEVENTH DEFENSE

136. The allegations of the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth Ninth, and Tenth Defenses are incorporated herein and made a part and parcel of this Eleventh Defense.

137. Any claim or allegation regarding the Sunset Provision can and should have been brought at the time of the amendments made by County Council to Ordinance No. 105-96, including, but not limited to Ordinance No. 11-04 enacted on April 20, 2004.

138. Moreover, any further claim or allegation could or should have been brought prior to the alleged subjected payment of "illegally charged Hospitality Fees."

139. The City and any purported class members had a duty to mitigate any or all of the alleged damages allegedly suffered by the City or the purported class members on or before January 1, 2017.

140. The City's recovery for any damages allegedly sustained by the City, which damages are specifically denied, must be reduced to the extent that the City has had the ability and opportunity to fully mitigate its damages, but has failed or refused to do so.

TWELFTH DEFENSE

141. The allegations of the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth Ninth, Tenth, and Eleventh Defenses are incorporated herein and made a part and parcel of this Twelfth Defense.

142. The City knew or should have known of the extension of the Sunset Provision and amendments to Ordinance No. 105-96, including, but not limited to Ordinance No. 11-04 enacted on April 20, 2004.

143. If any valid claim were to be made regarding the consent of any municipality, including the City, to any amendments to Ordinance No. 105-96, such claim should have been brought at the time of said amendments.

144. The applicable statute of limitations bars all claims of the City and/or any member of the purported class which arose three years or more prior to the filing of this lawsuit.

THIRTEENTH DEFENSE

145. The allegations of the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth Ninth, Tenth, Eleventh, and Twelfth Defenses are incorporated herein and made a part and parcel of this Thirteenth Defense.

146. The Defendant extended the sunset provisions to Ordinance 105-96 in 2004.

147. If it is found that the City's allegations state a claim, which is specifically denied, the City neglected for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. Specifically, and without prejudice to the generality of the forgoing, if it is found that the City's allegations state a claim, which is specifically denied, the City is required by the doctrine of laches to have brought the allegations on or before April 20, 2004, on or before December 6, 2016, or on or before January 1, 2017.

148. Instead, the City sat on its allegations for an unreasonable and unexplained length of time.

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149. The Defendant has rightfully relied on the actions it has taken on April 20, 2004, on December 6, 2016, and on January 1, 2017.

150. In light of the allegations made by the City, the delay in the City making the allegations has caused injury, prejudice, and disadvantage to the Defendant.

151. The doctrine of laches bars all claims of the City and/or any member of the purported class.

FOURTEENTH DEFENSE

152. The allegations of the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth Ninth, Tenth, Eleventh, Twelfth, and Thirteenth Defenses are incorporated herein and made a part and parcel of this Fourteenth Defense.

153. The City cannot assert its claims as a class action because the City has failed to define a legally definable and identifiable class of similarly situated entities or persons.

154. The City cannot assert its claims as a class action because the claims alleged would require an individualized inquiry for every purported class member which precludes class certification.

155. The City cannot prosecute its claims as a class action because whether a purported class member conferred a benefit upon Defendant such that its retention of that benefit is "unjust" requires an individualized inquiry that precludes class certification.

156. The City cannot prosecute its claims as a class action because the City has not suffered damages in excess of $100.00. Furthermore, the City fails to adequately allege that each member of the purported class has an amount in controversy in excess of $100.00.

157. To the extent members of the proposed class have paid the Hospitality Fee, the voluntary payment doctrine bars any claims for relief.

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158. The City is not an adequate representative of the class it seeks to represent.

159. The City cannot prosecute its claims as a class action because the City is not in the best position to fairly protect the interests of the class members.

160. The City cannot prosecute its claims as a class action because due process entitles Defendant to assert and prove any and all individual defenses it has to the claims asserted against Defendant by every purported class member.

FIFTEENTH DEFENSE

161. The allegations of the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth Ninth, Tenth, Eleventh, Twelfth, Thirteenth, and Fourteenth Defenses are incorporated herein and made a part and parcel of this Fifteenth Defense.

162. Defendant is a governmental entity within the meaning of § 15-78-10, *et seq.* of the Code of Laws for the State of South Carolina

163. Any claim for damages based on a legislative action or inaction is barred and/or limited by the provisions of § 15-78-60 of the Code of Laws for the State of South Carolina.

164. Any claim for damages based on a tortious act of commission or omission, including the claims of actual or constructive fraud, abuse of confidence, and/or unconscionable conduct, is barred and/or limited by the provisions of § 15-78-60 of the Code of Laws for the State of South Carolina.

SIXTEENTH DEFENSE
AND
FIRST COUNTERCLAIM

165. The allegations of the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth and Fifteenth Defenses are incorporated herein and made a part and parcel of this Sixteenth Defense and First Counterclaim.

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166. The City filed its Complaint when it was neither well-grounded in fact nor warranted by existing law.

167. Furthermore, there exists no justiciable issue of either law or fact raised by City in its Complaint.

168. In reliance on the pleadings filed in this action, the costs of defending against the City's claims should be borne by the City and/or the City's counsel.

SEVENTEENTH DEFENSE
AND
SECOND COUNTERCLAIM

169. The allegations of the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, and Sixteenth Defenses are incorporated herein and made a part and parcel of this Seventeenth Defense and Second Counterclaim.

170. The City unambiguously made certain promises to Defendant, including, but not limited to the City's strong and unanimous support of the Defendant's actions whereby the City urged the Defendant to implement the RIDE Report and collect a Hospitality Fee (the "City's Promises").

171. In reasonable reliance on City's Promises, Defendant agreed to incur the cost and expense associated with implementing the recommendations in the RIDE Report and in collecting and disbursing the Hospitality Fee.

172. Defendant only agreed to incur the cost and expense associated with such actions based on the City's Promises and upon the expectation that the City would keep the City's Promises.

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173. In reasonable reliance on City's Promises, and with no expectation of having a lawsuit brought against it, the Defendant is now having to incur unexpected costs and expense in order to defend itself from the City's claims.

174. After unanimously and strongly urging Defendant to act, and then after Defendant so acted, in good faith with the express and implied support of the City for over twenty years, the City has now broken its promise of support.

175. The City expected and could foresee that Defendant would rely on the City's Promises.

176. Defendant did in fact rely on the City's Promises, and in reliance on the City's Promises, Defendant incurred costs and expenses.

177. The City's Promises were broken when the City commenced this lawsuit against Defendant.

178. Defendant has been injured in reliance on the City's Promises, as Defendant incurred the needless cost and expense associated with the City's Promises.

179. Because the City has not kept its promises to Defendant, Plaintiffs should, in equity, have to pay the costs Defendant incurred in implementing the Hospitality Fee and in defending this lawsuit.

WHEREFORE, the Defendant, having fully answered the Complaint, pray for the following:

(1) the Complaint be dismissed with prejudice;

(2) the City be required to pay to the County all of the County's attorney's fees and costs it has incurred to defend this money grabbing, frivolous lawsuit; and

(3) for such other and further relief as this Court may deem just and proper.

Respectfully submitted:

McNair Law Firm, P.A.

s/Henrietta U. Golding

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Myrtle Beach, South Carolina
Dated: April 19, 2019

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ELECTRONICALLY FILED - 2019 May 20 2:39 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Plaintiff, vs. Horry County, Defendant.	)	CIVIL ACTION NO. 2019-CP-26-01732 **REPLY TO DEFENDANT'S ANSWER AND COUNTERCLAIMS**

Plaintiff, City of Myrtle Beach ("City"), for itself and, pursuant to Rule 23 of the South Carolina Rules of Civil Procedure ("SCRCP"), on behalf of a class of similarly situated fee payers, by and through undersigned counsel, submits its Reply to the Answer and Counterclaims of Defendant, Horry County ("County"), as set forth below. Except as specifically admitted, modified, or explained herein, each and every allegation of the County's Answer and Counterclaims is expressly denied.

For a First Defense

1. Paragraphs 1-164 consist of the County's Answer and legal defenses to the City's Complaint and, therefore, require no response. To the extent that a response to these allegations is required, City denies any allegations inconsistent with the allegations of its Complaint and re-allege the allegations of its Complaint as fully as if set forth verbatim herein.

For a Second Defense

2. Paragraph 165 requires no response by City. To the extent any response is required, City denies same and also incorporates the answers to the preceding and subsequent paragraphs by reference.

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3. Paragraph 166 contains characterizations and conclusions of law and not assertions of fact calling for admission or denial; therefore, no answer is required. To the extent an answer is required, these allegations are denied.

4. Paragraph 167 contains characterizations and conclusions of law and not assertions of fact calling for admission or denial; therefore, no answer is required. To the extent an answer is required, these allegations are denied

5. The factual allegation of Paragraph 168 is denied. Further responding, Paragraph 168 contains characterizations and conclusions of law and not assertions of fact calling for admission or denial; therefore, no answer is required. To the extent an answer is required, these allegations are denied. Additionally, County's counterclaim for costs of defending against City's claims is barred as a matter of law.

6. Paragraph 169 requires no response by City. To the extent any response is required, City denies same and also incorporates the answers to the preceding and subsequent paragraphs by reference.

7. Paragraph 170 is denied. Further responding, the City craves reference to the City's "Resolution Supporting the Findings and Recommendations of the RIDE Committee Report of September 1996," adopted October 8, 1996, which is attached and incorporated into the City's Complaint as Exhibit C. This resolution was not a "promise" made by the City. Instead, it was the City giving the consent required by law for the County to impose the Hospitality Fee within the City's corporate limits for a limited period of time. Rather than the City breaking a promise, the County unilaterally exceeded the terms of the City's consent in contradiction of the South Carolina Constitution, the Code of Laws of South Carolina, and Ordinance 105-96.

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8. Paragraph 171 is denied.

9. Paragraph 172 is denied.

10. Paragraph 173 is denied.

11. In response to Paragraph 174, the City craves reference to the City's "Resolution Supporting the Findings and Recommendations of the RIDE Committee Report of September 1996," adopted October 8, 1996, which is attached and incorporated into the City's Complaint as Exhibit C, and the City denies any inconsistent allegations. To the extent that the resolution may be read to create any obligation on the part of the City, the City contends that it has fully complied with same by taking no action inconsistent with its consent to the imposition of the Hospitality Fee for the time period and purposes set out therein and in the County's ordinance. To the extent any further response is required, the City denies the remainder of Paragraph 174, including that the City "has now broken its promises of support."

12. Paragraph 175 is denied.

13. Paragraph 176 is denied.

14. Paragraph 177 is denied.

15. Paragraph 178 is denied.

16. Paragraph 179 is denied.

17. The paragraphs following Paragraph 179 and designated as numbers 1-3 of the Answer and Counterclaims constitute a prayer for relief to which no response is required. To the extent an answer is required, City denies that the County is entitled to any of the relief sought in the Answer and Counterclaims generally or in the sections numbered 1-3, specifically.

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For a Third Defense
(Failure to State a Claim)

18. The relevant defenses contained in the preceding and subsequent paragraphs are reasserted and reincorporated as fully as if set forth verbatim, insofar as they are not inconsistent with the defenses of this Third Defense.

19. Pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, County fails to state facts sufficient to constitute causes of action against City and the counterclaims should be dismissed.

For a Fourth Defense
(Waiver/Estoppel)

20. The relevant defenses contained in the preceding and subsequent paragraphs are reasserted and reincorporated as fully as if set forth verbatim, insofar as they are not inconsistent with the defenses of this Fourth Defense.

21. County's counterclaims are barred by waiver and/or equitable estoppel as a result of the knowledge and conduct of County.

For a Fifth Defense
(Tort Claims Act)

22. The relevant defenses contained in the preceding and subsequent paragraphs are reasserted and reincorporated as fully as if set forth verbatim, insofar as they are not inconsistent with the defenses of this Fifth Defense.

23. County's counterclaims, and any liability of City stemming therefrom, are barred or limited in whole or in part by the South Carolina Tort Claims Act, S.C. Code Ann. §§ 15-78-10, *et seq.*

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For a Sixth Defense
(Absolute Immunity)

24. The relevant defenses contained in the preceding and subsequent paragraphs are reasserted and reincorporated as fully as if set forth verbatim, insofar as they are not inconsistent with the defenses of this Sixth Defense.

25. County's counterclaims are barred due to the fact that City's filing of this action is subject to absolute immunity.

For a Seventh Defense
(Unclean Hands)

26. The relevant defenses contained in the preceding and subsequent paragraphs are reasserted and reincorporated as fully as if set forth verbatim, insofar as they are not inconsistent with the defenses of this Seventh Defense.

27. County has acted wrongfully with respect to the matters alleged in its counterclaims and therefore is barred from recovery due to its own unclean hands.

For an Eighth Defense
(Leave to Set Forth Additional Defenses)

28. The relevant defenses contained in the preceding and subsequent paragraphs are reasserted and reincorporated as fully as if set forth verbatim, insofar as they are not inconsistent with the defenses of this Eighth Defense.

29. City reserves its right to set forth further affirmative defenses as needed.

WHEREFORE, City, individually and on behalf of all Class Members, having fully replied to the Answer and Counterclaims of the County, prays that the counterclaims be dismissed, judgment be granted against the County on its counterclaims, that the costs of defense,

including reasonable attorneys' fees, be awarded the City on the counterclaims, and that it be granted such other and further relief as may be just and proper.

Respectfully submitted,

s/Chad N. Johnston
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Attorneys for Plaintiff City of Myrtle Beach and All Others Similarly Situated

Columbia, South Carolina
May 20, 2019

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STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
COUNTY OF HORRY	)	**2019-CP-26-01732**
City of Myrtle Beach,	)	
Plaintiff,	)	
Vs	)	**Transcript of Record**
Horry County,	)	**June 14, 2019**
Defendant.	)	

B E F O R E:

The Honorable William Seals
Horry County Courthouse
Conway, South Carolina

A P P E A R A N C E S:

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Sallie Beth Todd
Circuit Court Reporter

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(There were no witnesses called during the hearing.)

Certificate of Court Reporter 33

EXHIBITS

(There were no exhibits marked during the hearing.)

THE COURT: I'm ready whenever you are.

MR. HOEFER: May it please the Court?

THE COURT: Yes, sir.

MR. HOEFER: Good morning, Your Honor. I'm John Hoefer with the law firm of Willoughby and Hoefer in Columbia. With me are Chad Johnston and Walker Humphrey from my firm. We represent the City of Myrtle Beach in the matter before the Court today. I appreciate the Court working us in during the General Session term. Judge, the City's Motion for Temporary Injunction raises the question of whether or not a county can unilaterally impose a service charge within the corporate limits of a municipality. More specifically, the motion asks the question whether a county can collect a percentage fee based on retail transactions completed within the incorporated area of a county for services provided only within unincorporated areas or services already being provided by the municipality without the consent or agreement of the affected municipality. The City of Myrtle Beach submits that the Constitution and the Code of Laws require that its consent be obtained before the County can impose such a charge and provide services on which that charge is based. The City's consent to the 1.5 percent hospitality fee, which is the name given to the charge on the County's Ordinance 105-96 was limited in both duration and purpose. The subsequent amendments which are the subject of this motion to have

Ordinance provide that it will have perpetual duration and allow the County's continued collection of this uniform service charge beyond the term provided in Ordinance 105-96. And it allows the use of the proceeds for a purpose other than specified in the Ordinance. We believe that the Constitution on Statutory Provisions as well as the Lamens Board itself made the amendments invalid as a matter of law. Because of that we believe the Court must issue a temporary injunction to prevent the County's continued collection of these funds and the expenditure of the funds derived from the Uniformed Service Charge within the incorporated areas for a different purpose. Let me give the Court a little bit of background. I know that this matter has been well briefed so please stop me if this is unnecessary. But, Ordinance 105-96 was adopted on October 15th of 1996, became effective January 1, 1997 and it imposes a 1.5 percent charge, Uniform service charge, on the sale of prepared food and beverages, accommodations and amusements within the incorporated areas of Horry County for a 20-year term. It also provides a 2.5 percent Uniform service charge on these same transactions in the unincorporated areas and that's not an issue in this case because Ordinance provisions leading the use of the funds and duration of 20-years only applies to the 1.5 percent charge, which again is the Hospitality Fee. The stated purpose of the charge under section 1(G) of the Ordinance is to create a fund, and I'm

quoting here, which will be used to implement the comprehensive road plan adopted by the County in concert with the municipalities of the County. That comprehensive road plan that was adopted in concert with the municipalities is the RIDE Development Effort Committee, the acronym is RIDE plan, its referenced in the recitals of Ordinance 105-96. The City of Myrtle Beach and every other municipality in the County that existed at the time, I think there's been one municipality created since then, but all municipalities that were existing in 1996 adopted resolutions prior to the effective date of Ordinance 105-96, in which they consented to imposition of this charge within the respective jurisdictions. Now, by its own terms Ordinance 105-96 terminated on January 1, 2017. That's found in section 1(H) of the Ordinance. The Ordinance references in this recital the new time table for the RIDE plan and that's what the 20 year term and the termination provision relate to. Continued imposition of the charge after January 2017 and the use of the funds of the revenues derived from that charge for purposes other than the comprehensive road plan provided for under the RIDE committee report adopted with the consent of the municipalities is what brings us to the Court today on these motions. Now, as the Court's well aware, the City is required to establish five elements in order to be entitled to injunctive relief and those are irreparable harm, likelihood of success on the

merits, a lack of adequate remedy at law or reasonable necessity for the injunctive relief and a demonstration that the County's conduct in imposing this tax or excuse me, bad slip up, not a tax uniform service charge; imposing a Uniform service charge is oppressive, arbitrary or capricious conduct. We submit that the City has established each of these elements in the pleadings affidavits and exhibits that have been placed on file with the Court. Because it's a similar issue, let me go first to the likelihood of the success on the merit. The City doesn't have to demonstrate here today an absolute legal right to relief, it only has to demonstrate that it's raised a reasonable question as to the existence of a right to relief. We cited the *AJG Holdings* and *Helsel* cases in support of that proposition. We believe that City's made that showing in several respects. The first being that the County's amendments which were seeking to enjoin are inconsistent with the language of Ordinance 105-96, which expressly recognizes that the imposition of the fee was limited in duration to a 20-year period that's now expired. And that the use of revenues derived from the Uniform service charge was limited to the implementation of the road plan adopted in concert with the municipalities, the RIDE committee report. That does not include any part of the law proposed of constructed Interstate Highway 73. I believe we submitted to the Court some minutes of the County Counsel and a resolution indicating that that is

an intended designation for some of these funds, nor does that plan include any other police power function including public safety which has also been mentioned in the County's resolutions in some of their minutes. The County's acting and continuing to act inconsistently with its own Ordinance so we believe we've raised at least a question with respect to our legal right to relief of those violations of its own Ordinance. Secondly, the County has to provide a service in order to provide a Uniform service charge and to provide the service in a municipal limits it has to have the consent of the municipality and we cite to the Court Section 13A of the Constitution and Code Sections 4-9-25, 4-9-35, 4-9-40 and 4-9-41. And these legislative provisions requiring the County to obtain the municipal consent only makes sense because the municipality is bound by the same requirements with respect to services that they might provide under 5-7-30 and under 5-7-60, they have to get the consent of the County to provide their services in the County if the County is providing those services themselves. The municipal consent that was given here by the City of Myrtle Beach was given in a formal action it was adopted resolution. And as I mentioned before every other municipality adopted similar resolutions. All of those resolutions say 20-years. And they all say for the purpose of the road improvement plan that's provided in the RIDE Report. So, we submit that we've demonstrated a reasonable question as

to the existence to a right for relief from the County in violation of the Constitution and the Statute. Third, under Brown versus Horry County for there to be a permissible Uniform service charge there has to be a service primarily for the benefit of the person whom the fee is imposed. The improvement of roads and other uses of the funds that the County has suggested in their resolutions and minutes that they're going to be devoting these funds to, those are typical police function powers. They don't necessarily or primarily benefit anybody but the residents of the City already receive the services for the City itself. We believe 4-9-40 is directly on point with regard to that issue. Fourth, Ordinance 105-96 itself recognizes the Constitutional Statutory Limitations on the County's conduct by recognizing the (inaudible) of municipal governments. By its language which limits the charge in duration and scope to achieve the ends of the road plan, which again were adopted in concert with the municipalities. There don't appear to be any Appellate Court decisions in South Carolina addressing this specific issue. I would submit to the Court that's likely because no County has ever asserted the extraordinary proposition that it can unilaterally impose a service charge, Uniform service charge, within the corporate limits of a municipality. However, we have cited to the Court a number of Attorney General opinions which have been issued over decades

which repeated hold or opine that the provisions of the Constitutions and the implementing statutes that I mentioned both in Title 4 and Title 5 recognize the independence of political subdivisions. The City of Myrtle Beach is a political subdivision. Horry County is a political subdivision. If it were otherwise, County's would be free to impose their will on municipalities of provisional services and the imposition of the Uniform service charge and what's good for the goose would have to be good for the gander. If the County's right then the City of Myrtle Beach ought to be able to go provide whatever services it would like in the unincorporated areas and impose services charges without the County's consent. Lastly on this point, we made the Court aware that legislation was introduced by members of the Horry County House Delegation to allow the County to do what the County believes -- says it has the right to do. We question why you need any legislation if you already have that right. So, we think the City has shown more than just a reasonable legal question as to a legal right to the relief they sought, which is to have the amendments allowing for the continued imposition of this Uniform service charge within the City without the City's consent. Let me next go to the irreparable harm element. The exaction of money by the government pursuant to an unlawful ordinance or the use of public funds for an unlawful purpose have long been recognized in South

Carolina as a basis for injunctive relief. We cited the *Santee Lumber* case, the *Riverwoods* case, *Ware Shoals*, *Kirk v. Clark*, *Shillito vs City of Spartanburg*. Not withstanding that Ordinance 105-96 terminated on January 1, 2017, the City continues to collect that money -- the County collects that money. And that happens every time the City, and the City is a payer of this fee, every time the City purchases prepared food and beverages or accommodations, they're paying that. That's happening without the City's consent and the money according to the County's resolutions and the minutes of the Counsel, they're going to use that for purposes not authorized by that Ordinance. We believe that sort of exaction to be unlawful from a Constitutional Statutory standpoint. We think that's the essence of irreparable harm and we've met that standard. The City lacks an adequate remedy of law for a number of reasons, which is the third element that I mentioned. There's no statutory process by which a Uniform service charge can be paid under protest and then a judicial proceeding initiated for covering of that charge after its determined to be unlawful. Now, County has cited their Ordinance 8-00 which creates a quote board of fee appeals. That ordinance doesn't provide an accurate remedy for a variety of reasons, Judge. First, the County doesn't have the authority to create such a board, 4-9-30 subsection 6 gives the County the authority to appoint boards quote, as making

necessary and proper to provide services upon concern for public purposes. The County's Board of Fee Appeals doesn't provide any services authorized to be provided by the County. It only reviews the propriety of Uniform service charges imposed by the County. Even assuming the authority to appoint this board, it's not lawfully created by this ordinance because it provides for the appointment of the board members by the County Administrator. Section 4-9-170 requires that the County Counsel appoint members of the County's board. And I'd also note that under the statutes providing for the powers of the County Administrators, specifically 4-9-630, there's no authority for a County Administrator to appoint this board. So, even if they had a board that was lawful, it's not lawfully constituted, and the members are appointed by the County Administrator. Third, Ordinance 8-00 reports to vest in a Court of competent jurisdiction, appellate authority. I know the Court can take notice that the authority of any Court in this State arises either by the Constitution or by statutes. There is no statute vesting any Court in this State with jurisdiction to hear an appeal from the Board of Fee Appeals in Horry County and we don't believe that an ordinance can create jurisdiction. The ordinance itself, 8-00, has some real disincentives and this goes to the points that we raised under the Supreme Court's decision in the McKesson case. There's a requirement that the fee payer file the appeal

within 10 days of paying the fee. I think the Court could take notice there are a lot of visitors to this area. They might not get back in home in time to get that done. It requires a $25 filing fee in order just to cover the amount of the fee paid, someone would have had to spent $1,666 before they get the $25. And while that filing fee might be recovered if you prevail, there's a real question about whether or not you can prevail under the McKesson case, whether or not there's an adequate remedy form that standpoint. So, when you couple that with the fact that there's no real ability of a Court to review the decisions of this Board of Appeals, there's no clear and certain remedy. Also, this system would be swamped if every person that paid 15 percent on every meal, drink, accommodation or amusement in Horry County were to appeal that, it would be overcome that means that it's not really a meaningful remedy. It's inadequate as a matter of law. In McKesson it doesn't provide a post defamation remedy according to due process it doesn't provide a clear and certain remedy. Finally, on this point about Ordinance 8-00 that the County has claimed constitutes an adequate remedy of law. That was not raised in their Answer as an affirmative defense to these claims under Rule 8(c) and so therefore it's waived. Let me go to the reasonable necessity requirement, this is in the Richland County versus DOR case that we've cited to the Court. Judge,

because there's no adequate remedy of law an injunction is the only relief available to the City of Myrtle Beach. Without an injunction the City and every other payer of this uniform service charge within the incorporated areas are going to be paying a fee and a tax on any transaction. This nearly doubles the amount of exactions on these transactions. That, of course, has impacts on retailers as well. So, we would submit that there's a reasonable necessity to address both of those issues. But, in addition, the action that the County is taking affectively disenfranchises the voters and municipalities because there are many members of the County Counsel who are not elected by municipal residents or specifically by residents of Myrtle Beach. This results in the alteration of the City's political integrity. That's prohibited under 4-9-41, even where there's consent given to the imposition of the charge, and here we don't have it. So, we believe that we've demonstrated that the injunction against these amendments 105-96 are reasonable and necessary. The last factor, this also comes out of the Richland County and DOR case and other cases, is we have to show the County's conduct are arbitrary, oppressive and capricious. Because the County has no authority under the law to provide services and impose a uniform service charge on transactions within the corporate limits of a municipality without the municipalities consent, it's doing so is unlawful and that's necessarily

arbitrary and capricious and oppressive conduct. Members of the County's own Counsel have recognized that there's a disconnect between having obtained that municipal consent to Ordinance 105-96 before it became affective, which again allowed imposition of that uniform service charge within incorporated areas for a 20-year period. And now seeking to impose that charge perpetually and for a different purpose than set out in the ordinance and specifically I think that's section 1(G). This can be seen in the minutes of counsel meetings that we've mentioned as well as in the resolutions of the County adopted in 2018 and 2019 that have been submitted. Your Honor, I'll conclude by saying the City has met its burden. It's established all five of the elements for injunctive relief. Without that injunctive relief the County's going to be collecting a uniform service charge within the corporate limits of the City without the City's consent, contrary to the terms of Ordinance 105-96, contrary to Section 13(A) of the Constitution, contrary to the statutory provisions in Title 4, Chapter 9 that I mentioned. All of which recognize the independence and political integrity of municipalities. The County must be enjoined from enforcing an amendment providing for the continued imposition of this uniform service charge.

THE COURT: Alright, thank you.

Yes, ma'am.

MS. GOLDING: Good morning, Your Honor.

THE COURT: Good morning.

MS. GOLDING: First of all, I'd like to introduce two members of my firm with me today, Adam Artigliere and we have Grayson Lambert. Also, today with me we have Arrigo Carotti, he is the County attorney. I have some counsel members here today with us, Dennis DiSabato, Gary Loftus, Mr. Howard, Mr. Hardee, Mr. Bellamy, Mr. Vaught, and Barry Spivey. We are here today with you, Your Honor. And I have to apologize for Mr. Gardner, he's the Chairman of the County Counsel. He asked me specifically to apologize to the Court but he had hernia surgery earlier this week and he wanted very much to be here. First of all, Your Honor, I was listening very carefully to the argument of the City. The City not one time mentioned one law that actually required a municipality to consent to the ordinance in question, 105-96. If you look through all of the writings submitted to this Court, Your Honor, there is not one State law that required a municipality to consent to 105-96. Going directly to the City's request for an injunction, Your Honor, it cannot meet any of the five elements or the three elements, however you look at it. Because none of those elements are satisfied. The first element is will they win on the merits or will the succeed or do they have a likelihood to succeed on the merits. The bottom line of their position is they had to consent to the

amendments extended 105-96. In the filings with the Court, Your Honor, they said we've admitted the City has consented to 105-96 but we never consented to the amendments. Your Honor, the City has never consented to the enactment of the County Ordinance 105-96. If you look at 105-96, Your Honor, it's the -- that ordinance established a hospitality fee and that ordinance, it's not too clear but, Your Honor, in section 1(A) County Counsel established the hospitality fee within the geographical confines of Horry County. It doesn't say, Your Honor, that hospitality fee of 1 percent is in the municipalities and in the unincorporated areas. This is significant, that ordinance says it is hospitality fee of 1.5 percent -- excuse me, 1 percent -- excuse me, 1.5. I can't see my own writing, Your Honor, I apologize -- is within the geographical confines of Horry County. And then section H is the sunset provision. These are two separate provisions, Your Honor. And in that sunset provision it states the 1.5 percent hospitality fee, it doesn't say only in unincorporated areas. That 1.5 was within the confines of Horry County. It's 20 years from the affective date of the ordinance. Those two sections, section 1(A) and Section H

are two separate sections of that ordinance. So, the questions is can the County amend its own ordinance? Local governments, Your Honor, have the authority to amend their own ordinances. They have that authority, if they have the power

to amend and its consistent with State law. There's no argument from the City that the County does not have the power to amend. There's no argument from the City that they can amend any other provisions and that's significant, Your Honor, because the County has amended this ordinance at least five times since its passage in 1996. There was an ordinance in 2004, 11-04 that first amended section H, the sunset provision. And, Your Honor, that ordinance was amended the first part of 2004. And this is the ordinance, while it's not clear, that provision specifically in paragraph 1 said it's hereby amended for an additional period of five years. Now, that was 2004. That was 15 years before the City brought its lawsuit. In those 15 years this ordinance in 2004 existed, it was recorded, you saw on the front page of that ordinance that it was recorded with the Clerk of Court's Office on April 23, 2004. Not once did the City say you can't do that. And what's ironic, Your Honor, in the City's memo with respect to this ordinance -- excuse me, Your Honor -- in the City's Complaint, I found this to be telling. In their Complaint, Your Honor, which they filed on March 20 of 2019, specifically in paragraph 27 of their Complaint, they identify this amendment in 2004, they identified a number of other amendments. But, what did they say about this amendment in 2004, which is Ordinance 11-04? What it said was the amendment made no changes to the pertinent provision, the

sunset provision. You know what happened, Your Honor? The City just didn't read it. The City knew that ordinance was there but for some reason it didn't read it and it didn't read it up to the time it filed this lawsuit. Because in its Complaint the City says no amendments -- this amendment had no effect on the sunset provision. Well, it's the very first thing it does is amend the sunset provision, Your Honor. And then also in the City's Complaint in paragraph 30 they reference all of the ordinances that the County undertook to amend and the City states these ordinances referenced in paragraphs 15 to 21 and 27 to 29 have been codified by the County in its code of ordinances, Section 19-6. While the City plead this in their Complaint, they now in their Memorandum say something very different. They say this one's not codified, 11-04 is not codified. So, the City has come to this Court seeking a serious and drastic remedy but taking two different positions. With the first position being that it was codified, they knew about it but they didn't read it. So, going back to this sunset provision. It was first amended in 2004. It was filed in April of 2004 in the Register of Deeds Office. Additionally, the City comes before you and says our consent is needed because look at all of our resolutions that we've passed. The resolutions, Your Honor, are also attached to the Complaint. And in their resolutions they attached every resolution that was passed in Horry County by the

municipalities supported this 105-96. In the Complaint, Your Honor, they not only provided the resolutions for the different municipalities, and they're all basically the same. All of these were done at the same time. They also provided the resolution from the Board of Education and the resolution from South Carolina Department of Commission. All of these resolutions are very similar. So, I guess what the County is saying is we also needed to have the approval or consent of the Board of Education to amend our ordinance because that's what happened in 1996, Your Honor. These various entities wanted to show their political support. And how did they show their political support, is they passed these resolutions, Your Honor, that urged the County to adopt. Didn't use the word consent, they used the word urge. Then in addition to saying, Your Honor, the City resolution means we consented even though they didn't use the word consent. They say, okay, look at the County application to the State Infrastructure Bank. Well, in the County application we made no reference that there was a consent required of any municipality. And also the County application is not a law, a State law, it doesn't say anything that consent was mandated. Then they say, okay, look at the RIDE Report. That shows that the municipalities had to consent and the RIDE Report says 20 years. The RIDE Report is attached to their Complaint. The RIDE Report has various years. It says up to 30 years and

even more. Yes, it says 20. It says long-term 30 years or more. So, the bottom line is, Your Honor, with respect to 105-96, the City says look at the face of that. There's nothing in that ordinance that says that any municipality has to consent. They extrapolate, Your Honor, and go to a provision regarding where the comprehensive plan adopted by the County, not adopted by the City, adopted by the County, in concert with municipalities. And so, the City stood up before you today and said we have to consent because section G of the ordinance says the comprehensive plan adopted by the County in concert with a municipality of the County. It has to be deposited in a road fund. So, there are four basis that the City comes before you today and says we must consent, so since we didn't consent to any of these extensions you cannot pursue. The face of the ordinance, clearly there's nothing on the face of the ordinance. Two, the City's resolutions, clearly using the urge and getting resolutions from the Board of Education and South Carolina Department of Commission along with other municipalities, clearly shows that those resolutions are nothing but political support. The County application, that's not law. Nothing in there is mandated. The RIDE Report, it refers to many different years. And as I said earlier, Your Honor, the City never objected to any amendments. And finally, Your Honor, with respect to this ordinance saying, you know, this ordinance cannot be amended.

There's no law that they've presented it can't be amended. A local government has a right to amend its ordinances. And I specifically draw the Court's attention to Hospitality Association versus Town of Hilton Head. Then the City in its memo argued well when you amended it in 2016 and then again in 2017 you really adopted a new fee. That goes hand in hand with you can't amend a sunset provision or a provision that is time related. There is nothing in the law that says you can't relate -- you cannot amend a sunset provision. But, significantly, Your Honor, this Court needs to look at Section 6-1-330(A). This is an Article 3 and the Title of Article 3 is Authority of Local Governments to Assess Taxes and Fees. Authority of Local Government to Assess Taxes and Fees. And the provision 6-1-330 specifically states, fees adopted prior to December 31, 1969 - 1996, sorry; remain in full force and effect until repealed by the local governing body. The City has not given one ordinance from Horry County that has appealed 109-96. So, we continue -- that ordinance continues in full force and affect. Now, while I could stop right here< Your Honor, and say clearly the City does not have any possibility of winning on the merits, that is simply not the case. They cannot win on the merits in this. But, I will go on, your Honor, and show that the City has not suffered any irreparable harm and I think this is ironic. The City today and in its memo says that we have suffered irreparable harm

and the irreparable harm is basically that they will have to pay double the amount in hospitality fees and accommodations if the City -- if this Court does not issue an injunction. In the Memorandum, and I made a note of the page, I apologize. In the City's Memorandum they describe the irreparable harm and that's on page 15 of their Memorandum which they submitted to the Court on May 3. And they say the irreparable harm to the City will be forced to pay nearly double what they currently pay. Then they say it will be a cumulative 6 percent on accommodations and 4.5 percent on prepared food. Your Honor, that irreparable harm is self-inflicted. The only reason the City says it suffers irreparable harm is because what it did earlier this year, just a few months ago when it enacted their own ordinances of hospitality fee and accommodation. So, what the City has done is inflicted their own irreparable harm if, in fact, such exists. And what's ironic in the case, the County has moved for injunctive relief and the City's Memorandum proves our injunctive relief because if the City is permitted to proceed forward with their taxes that they have imposed then irreparable harm is established because they've admitted they can't do what they've done because it's against the law because it exceeds the caps permitted by the statutory provisions. Aside from the fact that the loss of money is not an irreparable, but what the City has done is they've created the scenario and they planned

this carefully. And the City has said, okay we're going to take advantage of this because while we did read the 2004 amendment, it appears that we can take the position there's consent. So, we're going to make these amendments because there's several cases that the first governmental entity outside the door to levy the taxes or levy the service charges is the one that wins on the case established under State law. So, they were being diabolic, how it was planned. But, unfortunately for this City, the City had one fatal flaw and that flaw is they don't have a say so on the County ordinance. They're not required to consent to a County ordinance. And aside from not having irreparable harm, they certainly have an adequate remedy of law. I don't know if it's necessary to go but the City didn't even know there was this Board of Fee Appeal. But, what's ironic, the City stands here before you and says how, well it's a $25 filing fee, it's a 10 day appeal time; they never tried it. Not one time has the City made an effort to go through that appeal process. And what is 10 days? I mean, you go through workers compensation hearing you have 10 days. The law in South Carolina is replete that there are provisions within different governmental agencies that have 10 days as the time period to file notice. And certainly $25 filing fee, Your Honor, we don't establish filing fees in this State based on the amount in controversy. That's not a factor. Then another issue is, has the County exercised its

power in an arbitrary, capricious or oppressive manner? There's ample authority that a county can amend its own ordinances. If this Court granted the injunctive relief sought by the City, then this Court will be saying no county can amend their ordinances. That's the bottom line of the result. There's no law that requires the City to consent to this amendment. The City pointed to personal statements of County Counsel members. Your Honor, knows that it's the collective decision of the body that's the law. It's not the personal opinions of County Counsel members or legislators. Your Honor, there's something the City didn't talk about and that's called status quo. What the County is trying to do by obtaining an injunction against the City is to preserve the status quo. The City's enactment of its new taxes will take effect July 1, 2019. The County's hospitality service fee has been in existence since January 1, 1997. Who is changing the status quo? It's certainly not the County, it is the City. And the purpose of an injunction is to maintain the status quo. Your Honor, I think there's something to note that even though it was not argued in any of the briefs or memorandums submitted to the Court, if the Court granted the injunction that's sought by the City then this Court would be rewriting in entirety the Ordinance of 105-96. The City has jumped around and in several parts of its Complaint says they want declared unconstitutional the revisions to the sunset

provision. And half of them say, but that only applies to the municipalities. But, then they say we want the entire 105-96 declared unconstitutional. And then in a prayer they say, but only applicable to the municipalities. When I started my argument a few minutes ago I went directly to the first Section H in 105-96 where I pointed out that the 1.5 percent hospitality fee is within the geographical boundaries of Horry County. That's the 1.5. The City seeks to declare that that 1.5 is unconstitutional. Aside from the fact that the standard of review for constitutionality is beyond a reasonable doubt. What the City wants to do is this Court rewrite Section H and say 1.5 percent applies only to the unincorporated areas but not the municipalities. So, that's the relief the City is seeking, Your Honor. And Your Honor knows that this Court, nor any Court in this State can legislate. You are not a legislator. Your Honor, the City must be enjoined. The City passed in February of this year, knowing with full absolute knowledge of the County's 105-96. It had full knowledge of the amendments. The City's fees are in direct violation of Section 6-1540, which relates to the accommodations and Section 6-1740, which relates to the hospitality fee. They are in violation because the cumulative effect of the County and the City's taxes and service fess is above the limit permitted by the State of South Carolina. The City did that knowingly. Your Honor, I'm not sure I know of

another case that really established unclean hands on the part of the City as what the City has done here. Clearly the City, knowing what it would be doing would be against the law, that is unclean hands if there ever was. In addition to the City being in direct violation of State law, the County has no remedy for overpayment. The County cannot undue unlawful payments. There is no remedy for that. What would result is a 6 percent accommodations and 4.5 percent on prepared food and beverages. How do you give that back to an individual that bought a snow cone at Broadway? It's not possible. This Court has the power under Rule 65 to enjoin the City pending this case and the outcome of this case. Rule 65, contrary to what the City's position is, doesn't require a complaint. It requires notes and the County has given notes. While we've moved to amend, we have followed Rule 65 and asked the Court to enjoin the City. And we have been in compliance with the Court. But, I'm going to go back again, Your Honor, there is no law that prohibits County Counsel from amending its ordinances. Thank you, Your Honor.

THE COURT: Alright. Would you like to briefly reply?

MR. HOEFER: I would like to briefly reply I'm just not sure I'm able to do that, Your Honor. There was a lot said there. I wasn't aware that we were going to argue both motions at the same time, but I see Ms. Golding has already gone into that -- to the County's motion against the City.

Your Honor, Ms. Golding didn't address the constitutional provisions, Section 13(A). She didn't address the Title 4 opinion -- or Title 4 provisions we mentioned. And she didn't address the AG opinions that we mentioned. The law is abundantly clear. If you want to jointly exercise functions and provide joint responsibility for the cost, there has to be an agreement. Section 13, article 8 says, the legislator read article, section 13(A) and said okay, 4-9-25, everything they do has to be consistent with the Constitution of the General Law. 4-9-30, Subsection 5, the first part of that section says it has to be consistent with the Constitution of the General Law. 4-9-40 and 4-9-41 require that it has to be consistent with the Constitution of the General Law. All of which require the City's consent. And this argument about they can't ever amend an ordinance, get out your fishing net, that's the biggest red herring you've ever heard. What we're saying is, that they have to have the consent initially to impose this service charge for services provided in the incorporated areas. They had that consent and it was limited to 20 years. It was limited to a specific use of the funds. She doesn't address any of that. Now, what the County would like for you to do is to read provision or sections of 105-96 in isolation. The Court can't do that. You've got to read the ordinance as a whole giving effect to all of its parts and its intended purposes. And the County in their submissions

have acknowledged in their submissions that these recitals are part of the ordinance. So, look at a few of these recitals; whereas, considerable time and effort was expended by the governor's RIDE committee to establish a new plan and a new timetable. Whereas current law allows local government, not counties, not municipalities, both local government; current law allows local government to levy reasonable and necessary fees to provide needed infrastructure. Section 1(A), there is established a uniform service charge, and this is important later on because Ms. Golding wants you to thing that this is a tax, it's not, it's a uniform service charge. The uniform service charge hereinafter referred to as the Hospitality Fee equal to 1.5 percent within the geographic confines of Horry County. So, that's inside and outside of the City limits. Then you go to section 1(G), it says the funds derived from the 1.5 percent fee, specifically the 1.5 percent fee, shall be deposited into a road fund which will be used to implement the comprehensive plan adopted by the County in concert with the municipalities. And then you go to (H) the imposition of the 1.5 percent fee, percent Hospitality Fee for infrastructure will terminate 20 years from the effective date. Now, I must have misread the document before I filed it but when I look at page 17 of that Complaint all the City of Myrtle Beach is asking for is a declaration that the 1.5 percent fee cannot be imposed against the City of Myrtle

Beach. We're not asking to have ordinance 105-96 itself declared unconstitutional. We're not asking to stop the County from doing anything under that ordinance other than imposing the 1.5 percent fee on the City of Myrtle Beach and other payers of that fee for the transactions in the incorporates areas. That's all it's about. If there wasn't any requirement to get consent, ask yourself this question. Why did they go get it from every municipality in the County? What was the purpose? And these weren't just a letter form the City Administrator or the City Manager to the County Administrator saying, yeah we don't have a problem with that. They were formal actions, municipalities and counties both can act by statute either by one of two ways, either by ordinances or resolutions. So, they went and got these resolutions from all of these counties or form all of these cities. It begs the question, why do you need that if you don't have to have their consent? And, if Ms. Golding is right and there wasn't any consent then that means that this 135 percent fee has been invalid for a long time given the constitutional statutory requirements. The City would be entitled to do exactly what the County is doing, don't need the County's consent, we'll just go do it. Now, with respect to ordinance 11-04, Ms. Golding made a big deal about that and it is certainly correct that in the Complaint, the allegation was made that ordinance 11-04 was codified. We'll amend that to conform with the

record because it was never codified. If you read ordinance 11-04 very carefully it just says, we may expend it for a period up to five years if we need to. It didn't expend it and the language of 11-04 was never codified, that's a statutory requirement of the County that they didn't follow. But, even if it was codified, it can't have any effect because they can't amend the ordinance to extend the period or change the purpose of the uniform service charge without the City's consent. They're imposing this inside the City. So, there's another fish for your net, Your Honor. Now, Ms. Golding, I think she said that the City has alleged that the RIDE Report required a 20 years period. I don't think we ever said that. I think what we said was ordinance 105-96 and the consents of the eight municipalities all require the 20-year period. She mentioned 6-1-330, and the grandfathering provisions. The only thing that was grandfathered for the 1.5 percent was 20 years to pay for the RIDE, that's all that was grandfathered. And if you accept Ms. Golding's argument, that means they can change that ordinance to say, well okay we're going to bump it up to 2.5 percent and we're going to decide we're going to redo the Carolina Pottery Outlet Mall because we think that's a good idea. She attributed to the City an argument on page 15 about irreparable harm. The City's argument about irreparable harm is not on page 15, it's on page 13 and 14. And her assertion about exceeding the caps, and she's

specifically talking provisions of Title 6, chapter 1, articles 5 and 7. Those caps only apply to local accommodations and local hospitality taxes. Ordinance 105-96 does not impose a local accommodation tax or local hospitality tax. It imposes a uniform service charge and if you need any confirmation of that it says in ordinance 105-96 and it says it in the affidavit that the County submitted by Mr. Spivey on the County's behalf. It's a uniform service charge and those caps simply don't apply. She said that the City didn't read ordinance 11-04. Your Honor, when a City Counsel has an obligation to its residents to protect the City's political integrity and that's 4-9-41, there's nothing diabolic about that. She said that fatal flaw is the City can't control what the County does. A different but an analogist context is the City of Hardeeville versus Jasper County, Judge, in which the Supreme Court said this, the municipalities effectively do determine the amount of tax a county can impose within a municipality. All that the City is saying here is that they have the ability under law to require consent for the County to provide a service in the incorporated areas and attempts to impose a charge. Regarding unclean hands, Your Honor, if the City is complying with the law and the law specifically says you can impose an accommodations tax for 3 percent, you can impose a hospitality tax at 2 percent and there is no Horry County ordinance imposing a local hospitality tax or a local

accommodations tax for 2 or 3 percent inside incorporated areas. There's no diabolic motive, there's no untoward conduct. They were simply recognizing their authority given to them by the legislature to determine what transactions will be subject to these taxes and how the revenue from those taxes will be used. Last thing, Your Honor, I'll close by saying this, the example that Ms. Golding gave you about the snow cone, that tells you all you need to know about why the County's Board of Fee Appeals process is not an adequate remedy for the City. I'd be glad to go in and address the County's motion which she briefly argued, but we can rely on our briefs if that suits the Court.

THE COURT: Alright, that's fine.

I'll let you know something soon.

Thank you.

Y'all have a good day.

(ADJOURNED)

STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**

COUNTY OF HORRY CASE NO: 2019-CP-26-01732

B E F O R E: The Honorable William Seals
July 11, 2019

CITY OF MYRTLE BEACH,

For Itself and a Class of Similarly Situated Plaintiffs,

Plaintiff,

vs.

HORRY COUNTY,

Defendant.

APPEARANCES:

John M.S. Hoefer, Esq.
R. Walker Humphrey, II, Esq.
Chad N. Johnston, Esq.
Attorneys for the Plaintiff.

Henrietta Golding, Esq.
Grayson Lambert, Esq.
Jim Gilliam, Esq.
Attorneys for the Defendant.

Natalie Dahl, RPR

Court Reporter:

P-R-O-C-E-E-D-I-N-G-S

THE COURT: Thank you. All right. What do we have?

MS. GOLDING: Your Honor, since it's the County's motion for reconsideration, may I proceed?

THE COURT: Sure.

MS. GOLDING: Thank you, Your Honor. As I did at the hearing on the two motions, Your Honor, introduced some of our council members. Today we have with us our chairman of our county council. We also have the county council's attorney, Grayson Lambert and myself representing the county. Mr. Gardner was not able to be with us, unfortunately, last time due to surgery, but he made sure he would be here today.

Thank you, Your Honor. Your Honor, I think that we need to look at this in a different way. We've just had the July 4th weekend. Your Honor, knowing that you have been from Marion County for a long time, you know some of July 4th weekend. But over the July 4th weekend, we had a great weekend. Every municipality in Horry County had a great weekend. Why is that is because we have really good roads now. We're still in the process of building our roads. And thousands and hundreds of thousands of tourists now drive to the City of Myrtle Beach on Horry County

roads. In fact, Your Honor, that is the only way to get to the City of Myrtle Beach except by the airport, and we know that is not very many tourists. So the Horry County roads are significant to the County.

Since January 1997, the County has used the hospitality fees to build these roads. They have used the fees to maintain the roads. They used the fees to repair the roads, and also used the fees to provide protection and security and safety, for not only the people traveling the roads, but also the people that have to repair and maintain the roads. This means that this hospitality fee that was enacted in 1996, Ordinance 105-96, has been an integral part of county council's functioning to provide services to the people that visit and live in the county.

Every year since 1996, county council has used the hospitality fees for its annual budget. The hospitality fees that are to be collected this summer, Your Honor, have been used for its budget. They are part of our county's budget. I should probably note, Your Honor, I doubt very seriously the City of Myrtle Beach had in its budget any collection of fees that it has newly enacted, but the County has had these fees.

Now, county council -- excuse me -- now county council and Horry County face a serious dilemma if

this injunction is not set aside, Your Honor. Our budget that we passed and enacted last year has budgeted for use of these fees for EMS and other related public safety based on these fees.

We presented the affidavit of Barry Spivey, our head financial officer for Horry County. You don't know Mr. Spivey, Your Honor, but he is an honorable man. You will get to know him in this lawsuit for he will be a vital witness. You will get to know that what he said in his affidavit is true and accurate. In his affidavit that was submitted to the Court before we had our hearing, in Paragraph 4, it says: The catastrophe for Horry County would be because the County would have to immediately raise property tax millage to replace existing funding or terminate the employment of many critical public safety-related employees such as police, emergency management, EMS personnel and employees handling 911.

While the City, through its financial director, Mr. Shelton, filed an affidavit trying to contradict these facts, the fact is that Horry County is in an extremely precarious position because of this injunction. We have, and are now, feeling a dramatic effect because of this drastic action taken by the Court, which never should have been taken. This

dramatic change -- and that is what has happened, there has been a dramatic change to Horry County government --

THE COURT: How many years did Horry County think that they could just continue to run this tax? Forever?

MS. GOLDING: Yes, sir, because in 2004 --

THE COURT: Why do we have a 20-year ordinance?

MS. GOLDING: We don't have a 20-year ordinance.

THE COURT: Why did everyone consent to --

MS. GOLDING: No. Nobody consented to 20 years. County council passed an ordinance, and in the ordinance, we had a sunset provision of 20 years. In 2004, Your Honor, that ordinance was amended extending it five more years to 2022.

In the Plaintiff's complaint, the City's complaint, Your Honor, they point to the 2004 ordinance. They say this order was enacted. They say it was codified. The City had full knowledge, and it was codified. Then, when we brought it up as a basis, wait a minute, City, we amended this in 2004, extended it five years to 2022. The City says, Well, it wasn't codified properly.

Your Honor, that is not what their complaint says. When I brought that up in the arguments,

Mr. Hoefer stood up and said -- he admitted what their complaint says, it says we're going to amend. They have made no effort to make any amendment. And since 2004, that ordinance was to expire in 2022, and then in the 2017 amendment -- I think it was 2016, it was extended indefinitely.

But, Your Honor, you -- you asked the central question: What is the consent needed? There is no consent set forth that is required in 105-96. None. The City and your order point to the words "urge" or "in concert." Your order -- the issue is "in concert" does not mean with respect to its consent to the sunset provision.

Due to your question, Your Honor, I'm going to jump to another part of my argument, if you don't mind.

THE COURT: Sure.

MS. GOLDING: Your order stated that there were constitutional issues, Your Honor, but yet failed to address the simple fact that for an ordinance to be declared unconstitutional, it must be by beyond a reasonable doubt. Nowhere is there a legal requirement that the City must consent to any amendment. It certainly is not in any of the constitutional provisions mentioned in your order.

Not one requires consent. It certainly is not in any state statute. The City says home rule. Home rule. That doesn't apply, Your Honor. And there is nothing in the home rule that states that the city must consent to a county ordinance.

Words matter, Your Honor. Words are important. There is -- the plain language of the law does not require consent. There is nothing legally that requires consent, and there is nothing in the ordinance that requires consent.

Now, Your Honor, the status quo is important and against the backdrop of the use of the hospitality fees by the County and what the County has done, and is doing, and had planned to do with the hospitality fees, you have the backdrop of status quo. I do not believe that you intended to order that an ordinance cannot be amended, but that is what it says. I do not believe that you meant to alter the status quo, but you did.

The status quo states specifically that there cannot be any change that prejudices a party. That's the state supreme court decision that we quoted. A party cannot be prejudiced -- can't have its rights prejudiced, and that's what has happened. This order has thrown asunder Horry County's budget.

The City's position is that there hasn't been a change to status quo because the County is conducting illegal activity. Your Honor, there is absolutely nothing illegal about collecting the hospitality fees we have been collecting since 1996. Aside from the status quo then, and in addition, the City had to establish that it would succeed -- or likelihood of success -- on the merits. As I've already said, Your Honor, there is no tenets of the law that requires the City consent to an amendment of Ordinance 105-96.

I've already addressed the 2004 amendment. That 2004 amendment was basically not addressed in your order, Your Honor. That extended the ordinance, the sunset provision, until 2022.

Interestingly, Your Honor, the injunction order states that Horry County created a new fee. Your Honor, that is not realistic. That is not a realistic conclusion. This hospitality fee has been in existence since 1996. It's the same fee that's been in existence all of those years. Nothing has changed in the ordinance about a hospitality fee, only the sunset provision. For that to be determined, the institution or enactment of a new fee is simply not based on any law.

The City points to statements of county council

members, the confusion, the chaos that has resulted. The real concern -- aside from the fact that, you know, facts not inadmissible, it does show that Rule 65 is not followed.

Your Honor, Rule 65 was violated by this order in three clear provisions. Rule 65(B) sets forth what requires the order to state what is and isn't permitted or prohibited. It does not permit reference to the complaint or the motion, but that was in the order. That is what happened. That is what the briefing of the City is. The injunctive order simply does not state what is permitted or not permitted.

So in addition to Rule 65(b) not being complied with in the order, Rule 65(c) was not complied with, and that is the bond provision, Your Honor. Rule 65(c) clearly states that a bond is required unless you are the state, you are a state employee or you are a state agency. The City's position says it is a state political subdivision. It has not stated that it's an employee and it's an agency. It clearly is not, Your Honor. The City is clearly not exempt from the bond. There has to a real bond to cover the damages Horry County has suffered.

In our motion to reconsider, we said that we will in one year be deprived of $28 million due to the

injunction with respect to the City's collecting -- due to our collection of the City's -- within the City of Myrtle Beach. 28 million dollars in one year. Your Honor, that was based upon the affidavit of Barry Spivey, and that was 28 dollars (sic) for one year within the boundaries of the City of Myrtle Beach.

I already told you, Your Honor, the effect that the collection of not collecting hospitality fees has on Horry County. That cannot be underestimated, Your Honor. It's a real thing. It's real that Horry County is going to be severely hurt. And what is the harm to the City of Myrtle Beach? None, because they never had these fees. They didn't have a budget for the fee, and they never had the fee. Your Honor, I think it's -- I think it's important to understand the mindset of the City.

Your Honor asked us to exchange scheduling orders. Immediately on the first day you asked me, I sent a scheduling order basically saying let's end this thing by the end of this year, fast track everything. Last week -- I think it was 11 days after I sent one -- I got a proposed scheduling order from the City that I would like to hand that up to you and your law clerk. This proposed order has mediation by 2020, has pretrial briefs by November 2020 and a trial

not before December 1, 2020. That is most telling of the mindset of the City. The City does not care. It does not appreciate what the effect of this injunction has on Horry County. In fact, Your Honor, if we wait until 2020 with respect to needed repairs that we have -- we now have road construction going on under the RIDE program. We didn't borrow monies for those. We used the monies we anticipated collecting to complete those roads. It is going on right now, Your Honor. If the mindset of the City is to harm Horry County, then they are succeeding, because we are hurting every day.

We respectfully request, Your Honor, that you reverse, remand the injunction and that you fast track this case. This case is a serious case with complex legal issues to which there is no indication that either side will be able to resolve without you, Your Honor. So on behalf of Horry County, we respectfully request that you nullify the injunction order and fast track this litigation. Thank you.

THE COURT: Thank you. All right, Mr. Hoefer.

MR. HOEFER: Thank you, Your Honor. May it please the Court. I'm John Hoefer. With me is Chad Johnston and Walker Humphrey with the law firm of Willoughby & Hoefer in Columbia. We represent the

City of Myrtle Beach in this litigation.

Your Honor, I came here today thinking that we were hearing a motion for reconsideration, but we actually heard a request for a redo, and that is inappropriate under the Rules of Civil Procedure.

A lot of talk about, well, we are going to be harmed by your decision, Your Honor, because we were counting on these funds. Let's look at a few things here. First, they didn't make that argument to you before so, therefore, that is an inappropriate argument on reconsideration.

They talk about, oh, well, we want to use these funds for not only roads, but repairs, paying the public works crew, paying public safety, and we've been doing that. If they have been doing that, Your Honor, they just admitted that they were violating the law, because the ordinance clearly says what the money is supposed to be used for. So only in the County's view can they just say, well, we don't really have to do what our own ordinance says. In fact, up until February of 2019, they were obligated to use that money only to pay off the loan to the state infrastructure fund, which they did in 2019.

Ms. Golding talks about, you know, it is hurting us today, we don't have the money, we were counting on

this money. Of course the Court can't take notice of a municipal or county ordinance, but they haven't brought a budget ordinance to show you that says we've already budgeted money for this. Where is the beef on that? I don't think it exists.

With respect to Mr. Spivey's affidavit, Your Honor, I would note that they submitted Mr. Spivey's affidavit, the City submitted a reply affidavit by Mr. Shelton -- or a response affidavit by Mr. Shelton. No reply affidavit by Mr. Spivey. Let's talk about Mr. Spivey's affidavit, because what he says in there, and what Ms. Golding just admitted to the Court, is that $28 million would have been collected in all of the municipalities. This motion for reconsideration, and the County's refusal to abide by the Court's clear injunction, is all based on, well, it only applies in the City of Myrtle Beach. If you go back again to Mr. Spivey's affidavit -- and Ms. Golding's admission to the Court -- that $28 million collected in all municipalities is what we're talking about.

Now, let's talk about the harm of them not getting that $28 million. In support of the County's own motion for preliminary injunction in this matter, the County said, well, we'll just segregate the money, set aside the money that we would collect off of the

1.5 percent, that whole 28 million, we'll set it aside. Well, if you can set it aside, how is it going to cause this catastrophe pursuant to a budget ordinance that we haven't seen and don't know it exists, how can those two things be? Your Honor, I think that the arguments are simply please-let-us-out-of-what-we've-done-to-ourselves. That is not this Court's job.

Now, with respect to the arguments that there is no constitutional statute prohibition against what the County has done, the Court cited in the order -- even though the County apparently didn't read it because they said you didn't cite it, but you did cite it -- Article 8, Section 13 of the constitution. You did cite Section 4-9-20 of the code. You did cite 4-9-35 of the code. You did cite 4-9-40 and 4-9-41.

Let's look at one of those, 4-9-40: Any county may perform any of its functions, furnish any of its services within the corporate limits of a municipality by contract with the individual corporation or municipal governing body subject always to the general law of the constitution of the state. It is clear as it is can be.

4-9-41, she talks about the irreparable harm. Well, to the City it is not just that the City is not

able to collect money; that is a different motion. That is her motion to enjoin the City's imposition of combination taxes, hospitality taxes under the provisions of Chapter 1 of Title 6, 3 percent accommodations, 2 percent hospitality. That is not what her -- injunction against her is about. She lost that argument. What went up against them is about what happens to the City if the City has to pay this. It is not just the money, it is the fact that the City has no means to get the money back absent an injunction. And it is also not just about the money, it is about the political integrity.

Your Honor cited in the order -- and we cited it, and I'll bring it up again -- 4-9-41: Any county, incorporated municipality, special purpose district or other political subdivision -- this is going to become important in a minute -- may provide for the joint administration of any function and exercise of powers as authorized by Section 13 of Article 8 of the South Carolina Constitution. The provisions of this section may not be construed in any manner to result in diminution or alteration of political integrity of any of the participant subdivisions which agree to and become a part of the functional consolidation.

As the Court found in its order, the effect of

what the County has done is to say we get to decide what is best for the citizens of Myrtle Beach and the other seven municipalities in Horry County. That is not how it works. While Ms. Golding can denigrate the law however she wants, it is the law of the State -- and it is very clear under the law of this State -- that the municipalities of Horry County have independent political dignity and existence from Horry County. Horry County, although it styles itself as an independent republic, the City of Myrtle Beach and the other municipalities are not facet states. They have their own authority. The law recognizes that. This Court can recognize it. They have provided you with no basis, whatsoever, for reconsideration.

With respect to the amendment to the complaint. As I said in the argument on the motion for reconsideration, we will move to amend the complaint to conform to the evidence at the appropriate time. We haven't reached trial stage yet.

With respect to the scheduling order. First time that we knew that the City -- excuse me, that the County didn't like what we put in our proposed scheduling order was when we read it in this filing. We got no call back. We got no, No, that won't work, John, try this. None of that. But all this talk

about, oh, we have to have a fast track. Horry County has told the world that they expect you to deny this motion for reconsideration, and they are going to immediately appeal. So they are going to get an answer sooner rather than later, if they do appeal it. And I'll ask the Court to take note of the fact that under the appellate court rules, they can ask for expedite here. They can ask for a supersedeas.

So all of this, well, we were surprised at what we saw from the City of Myrtle Beach and this demonstrates that something -- I think the phrase that was used was "the mindset of the City." Well, let's talk about the mindset of Horry County. The mindset of Horry County is simply this: It doesn't matter what Judge Seals says, we can do what we want. We can ignore his order, which specifically said if you were issuing the injunction to protect all of the municipalities and all of the class members -- pretty plain to me. Apparently, members of the governing body of Horry County, and some of their elected officers, read your order the same way everyone else did. It is not a matter of confusion; it is a matter of litigation strategy. That was admitted by the County attorney, and that e-mail was public. I don't know how those e-mails got out, but if you want to get

a sense of someone's mindset, Your Honor, read those e-mails.

Now, Ms. Golding cited to Rule 65(b), and I think she intended to cite 65(d) with respect to the form and scope of the injunction or restraining order. We think that, absolutely, the order complies with Rule 65(d). It says, Shall describe in reasonable detail and not by reference to the complaint or other documents by acts or acts sought to be restrained.

Your Honor said I'm granting their injunction, which clearly is to apply to every municipality, and I'm doing it to protect every municipality in Horry County. We would submit that you have complied -- or the order does comply with Rule 65(c). With respect to -- excuse me, 65(d), I beg your pardon.

She did cite 65(c), and she says, well, you have to require security. Let's talk about that for a second. When the County came to you and said we want you to enjoin the City of Myrtle Beach from imposing the 3 percent, 2 percent accommodation and hospitality taxes under Chapter 1, Title 6, just know that we're going to put the money that we're collecting on the 1.5 percent aside, and that is enough to satisfy the judgment. Well, as we pointed out in our response, the City of Myrtle Beach can say the same thing. It

can put that by, and it will be more than enough to satisfy the judgment against the City of Myrtle Beach.

Now, Mr. Spivey's affidavit says, oh, it is $28 million. Well, according to Mr. Spivey's affidavit, I believe the City of Myrtle Beach -- he says the City of Myrtle Beach would be collecting $14 million, and that the others would be collecting approximately eight. That is $22 million. As we said in our submission to the Court, that $22 million, plus the City of Myrtle Beach's ability to respond to the balance, would be more than enough. The Court does not have to require security here in the first instance because Horry County has failed to refute Hibernia Society versus Thomas, which says that a municipality has no independent status quo from the State; it is a political subdivision of the State. So we don't think any security is required. But if security is required, certainly what is good for the goose has to be good for the gander. If Horry County can come to the Court and say, well, you know, we'll just hold the money aside. The City of Myrtle Beach can certainly do the same, and it would be more than sufficient to satisfy any requirement with respect to security under Rule 65(c).

Many of the -- beg the Court's indulgence.

(A brief pause in the proceedings.)

MR. HOEFER: You heard Ms. Golding say this was a challenge to the constitutionality of the ordinance. I'll say it one more time. The lawsuit doesn't challenge the constitutionality of the ordinance. The lawsuit challenges the validity of amendments to Ordinance 105-96, which change the scope, the use of the funds -- excuse me, it doesn't -- it changes the terms, the duration of the sunset provision without the City's consent, and now what they say, even though they have not amended the ordinance to be used anything other than the RIDE plan, the road restructuring plan adopted in concert with municipalities; they say we can do that. Well, that is not a challenge to the constitutionality, Ordinance 105-96. That is not even a challenge to the constitutionality as it applied. What it is is it is a challenge to the validity to the amendments which were not adopted in concert with the municipalities with their consent; that makes it invalid. So you don't get any of these alleged constitutional amendments.

We must have read different orders. Ms. Golding says that your order says they can never amend orders. I don't think that is what the Court's order says.

The injunction said your amendments, to the extent that they seek to impose uniform service charges with municipalities, without the consent of municipalities, is invalid to that extent. You haven't said that Horry County can never amend an ordinance.

Lost in Mr. Golding's analysis is the County's ability to raise money, and they have an abundant number of ways to raise money.

Beg the Court's indulgence.

THE COURT: Sure.

MR. HOEFER: Unless the Court has questions?

THE COURT: I have no questions. Thank you. Briefly, if you would like to.

MS. GOLDING: Yes, I would like to.

The City says the County can raise money. Your Honor, that is changing status quo. The City said that there is a constitutional provision relating to furnishing services. Your Honor, there is nothing that shows that Horry County furnishes services to the City in this matter. That doesn't relate. That is inapplicable.

The City challenges to the Uniform Service Fee. Section 4-9-40 is about providing a service. The City has not identified what service in the City that the County is provided by this hospitality fee. We are

not. I think the City needs to remember that its citizens are also citizens of Horry County. Home rule, Your Honor, is not applicable. Home rule is about the relationship between state government and local government, not about the relationship between two local governments.

Your Honor, the City refers to my affidavit as strategy -- excuse me, not my affidavit, my e-mail that I sent, and they said it was strategy. Your Honor, I said in the e-mail the same thing I'm saying today. I believe the injunction is flawed seriously, many errors have been committed by issuance of that, and the simple fact is Rule 65 has been violated on three separate specifics by that injunction.

Again, I ask the Court remand the injunction, please set an expedited schedule for this trial. Thank you, Your Honor.

THE COURT: You get the last word.

MR. HOEFER: Your Honor, with respect to the status quo, Your Honor's order did address it, and if you accept the County's reargument on that very point, there can never be an injunction issue in this state. We think your order correctly disposed of that issue.

With respect to the fast track, we would be happy for the Court to issue a scheduling order, if it so

chooses. And, of course, under the appellant court rules, there is no automatic stay from the issuance of an order granting an injunction, and so we will be free to continue to litigate at pace. However, the County has publicly stated that they intend to appeal the order, that they expect you to issue denying their reconsideration and asking for a supersedeas. So we don't know when it will be appropriate to have a trial. We are happy to provide the Court with our comments with respect to the proposed order they submitted to us as to the reasons why we think it is inappropriate. Again, we didn't know anything about it beforehand.

One other thing I would say to Your Honor. You know, it hasn't been touched on here very much today, with good reason, is the issue of, well, did the injunction really apply to the other municipalities? I would like to hand up to the Court a copy of the transcript of the hearing, which I think -- and we have highlighted for the convenience of the Court and opposing counsel -- the various places where Horry County counsel specifically argued to this Court that the injunction applied -- an injunction was being sought applied directly in every municipality in Horry County. It is not a matter of strategy, Your Honor.

It is a litigation tactic, and that is what is really going on here, is we just don't want to be bound by your order, here is a tactic to get us around it. Thank you, Your Honor.

MS. GOLDING: If I may? I apologize, but he didn't address my arguments. And just by presenting this transcript, Your Honor, they are, again, violating Rule 65(d), in which nothing else is to be presented. Thank you, Your Honor.

THE COURT: Any other motions?

MR. HOEFER: Your Honor, we do have the City's motion to hold the County -- for issuance of rule to show cause of why the County should not be held in contempt. Your Honor, I would submit we've provided the Court with ample evidence that Horry County is continuing to collect inside municipalities, other than the City of Myrtle Beach, in Horry County, the 1.5 percent hospitality fee. If there were any doubt about the accuracy of the affidavits from the city administrator for North Myrtle Beach, and the city administrator for Surfside Beach, Mr. Peeper, you only need to read the e-mails that were published issued by Ms. Golding, the county attorney and various members of Horry County counsel. The public -- which were, by the way, sent to Mr. Peeper and Mr. Mahaney

(phonetic). We don't know why, but they were sent. They very clearly demonstrate that Horry County has no intention of complying with your injunction unless you make them do it. We ask that the Court enforce the temporary injunction and direct Horry County to cease collecting the 1.5 percent hospitality fee in any municipality within Horry County, just as your order enjoined them to do. Thank you.

THE COURT: All right.

MS. GOLDING: Your Honor, I don't know why the City ignores Rule 65. Rule 65(d) specifically states that an injunction only applies to the parties. No other municipality is a party.

Additionally, the only reason that the City is arguing because they fashioned their complaint as a class action, but Your Honor knows that it is not a class action until that is ordered by the Court. There is no other party other than the City of Myrtle Beach. No other municipality has made any attempt to intervene.

In addition, Your Honor, we made a motion to dismiss any allegations of class action, because under state law, a city -- a municipality cannot maintain a class action. It is sad that one municipality, the City of Myrtle Beach, wants to hold Horry County in

contempt for doing something that it's lawfully entitled to do. That shows you the malice of the City towards Horry County. Your Honor, we need to get this case fast tracked. We need to get back a good relationship that we had before this lawsuit started. We need to remedy it, and the only way to do that is to reverse this injunction and fast track this. Thank you, Your Honor.

MR. HOEFER: Very briefly, Your Honor. Seems to be confusion about what Rule 65(d) does and doesn't do. It requires the Court to describe in reasonable detail the injunction that is being granted, and we think the Court has complied with that.

With respect to the remainder of Rule 65(d), the only party who is bound by the injunction is Horry County. They are a party in the case. Now, quite apart from that, clearly under Rule 23 this Court absolutely has the ability to issue a preliminary injunction that protects the class prior to certification of the class; otherwise, this Court's equitable powers would be nonexistent.

Regarding this fast track, again, I can't emphasize it enough, they are going to appeal your order. They'll get an answer and get it pretty quickly, I think, if they ask for supersedeas, and we

may be right back here. But that is just a ruse to get around the very fact that they have not complied with your injunction, and don't want to.

We think the Court should and, frankly, must, to preserve the dignity of the judicial process in this state, enforce the injunction by granting the rule to show cause. Thank you, Your Honor.

THE COURT: I will take it under advisement and let you know something this week.

MS. GOLDING: Thank you.

(The proceedings concluded.)

CERTIFICATE OF REPORTER

State of South Carolina)
County of Horry)

I, Natalie Dahl, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate Transcript of Record of the requested proceedings and the evidence introduced in the hearing of the above-captioned case, relative to appeal, in the Court of Common Pleas for Horry County, South Carolina, on the 10th day of July, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 12, 2019

_____

Natalie Dahl, RPR
Court Reporter

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STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Plaintiff, vs. Horry County, Defendant.	)	CIVIL ACTION NO. 2019-CP-26-01732 **MOTION FOR PRELIMINARY INJUNCTION**

TO: DEFENDANT HORRY COUNTY, by and through its Attorneys: Henrietta U. Golding, Esquire, and Adam R. Artigliere, Esquire, of Burr Forman McNair, Myrtle Beach, South Carolina:

YOU WILL PLEASE TAKE NOTICE that Plaintiff City of Myrtle Beach ("City"), pursuant to Rule 65, SCRCP, will move for an order enjoining Defendant Horry County ("County") from continuing to collect its 1.5% fee on the sale of accommodations, prepared food and beverage, and amusements within the corporate limits of the City and any other Horry County municipality ("Hospitality Fee") during the pendency of this litigation. City will seek a hearing on the within motion before the presiding judge for the Fifteenth Judicial Circuit in the Court of Common Pleas at the Horry County Courthouse, Conway, South Carolina (or a Business Court Judge if City's motion for assignment to the Business Court is granted), or such other location as the Court may set, ten days after the date of this motion or as soon thereafter as a hearing is scheduled by the Court.

In support of this motion, the City would respectfully show that it is entitled to preliminary injunctive relief for the following reasons:

1. The City has demonstrated a likelihood of success on the merits that the County's imposition of the Hospitality Fee beyond January 1, 2017, was and is unlawful

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because the ordinance authorizing same was terminated on that date as a matter of law, the County's uses of the revenues now being generated by the Hospitality Fee are beyond the scope permitted under said ordinance, and the County does not have the consent of the municipalities within Horry County to impose said fee as required by law and the ordinance.

2. The City has suffered irreparable harm and lacks an adequate remedy at law because no statutory procedure exists for the City or any class members to pay the Hospitality Fee under protest and/or request a refund.
3. An injunction is reasonably necessary to protect the City's and the class members' interests because equitable relief is the only avenue available and it is needed to avoid simultaneous imposition of the unlawful Hospitality Fee and properly enacted municipal hospitality and accommodations taxes. An injunction is also reasonably necessary to restore to residents of the City and other municipalities in Horry County their right to have the persons serving on governing bodies adopting ordinances providing for governmental exactions regarding accommodations and hospitality transactions within their respective cities and towns be elected by persons within such municipalities. Members of Horry County Council have enacted ordinances to impose the Hospitality Fee in all municipalities even though many of them are not elected by residents of one or more of these municipalities and have not received the consent of the elected representatives of these municipalities to do so.

This motion is based upon the South Carolina Rules of Civil Procedure, the South Carolina Constitution and other applicable law, the pleadings, a memorandum or memoranda of law and an affidavit of Michael W. Shelton submitted by the City concurrently herewith and/or

before the hearing on this motion, and any other materials or matters the Court may permit to be presented at the hearing on this matter.

Respectfully submitted,

s/John M. S. Hoefer
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Attorneys for Plaintiff City of Myrtle Beach and All Others Similarly Situated

Columbia, South Carolina
May 3, 2019

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STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Plaintiff, vs. Horry County, Defendant.	)	CIVIL ACTION NO. 2019-CP-26-01732 **MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Rule 65, SCRCP, Plaintiff, City of Myrtle Beach ("City"), submits this memorandum in support of its motion for this Court to enjoin Defendant Horry County ("County") from continuing to collect its 1.5% uniform service charge on the sale of accommodations, prepared food and beverage, and amusements within the corporate limits of any Horry County municipality ("Hospitality Fee") during the pendency of this litigation.

INTRODUCTION

For over two years, the County has illegally exercised its unilateral will to collect tens of millions of dollars annually in Hospitality Fee revenues without the required consent of any municipality within which the County imposes this fee. And the County has expressed its intention to continue collecting this unlawful Hospitality Fee despite lacking any authority to do so. The City commenced this action on behalf of all individuals and entities (including other municipalities) who have paid the Hospitality Fee since January 1, 2017, or are subject to being required to pay same in the future (collectively, the "Class"), seeking a declaration from this Court regarding the legality of the County's actions, seeking permanent enjoinment of the County's continued collection of the Hospitality Fee, and to impose a constructive trust on the sums unjustly collected and retained by the County since the Hospitality Fee expired by its own

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terms. No South Carolina statute prescribes a remedy for the Class of aggrieved fee payers. Left without an adequate remedy at law to obtain relief, the City's claims, for and on behalf of the members of the Class, must sound in equity. To preserve the City's and Class members' rights pending a final determination of this case, this Court should enjoin the County's continued and unlawful collection of the Hospitality Fee during the pendency of this litigation.

FACTUAL BACKGROUND

A. Development and Enactment of the Hospitality Fee

The Horry County Council ("County Council") enacted Ordinance No. 105-96 on October 15, 1996. A copy of this ordinance is attached hereto and incorporated by reference as Exhibit A. This ordinance imposed a 2.5% percent uniform service charge on the sale of accommodations, amusements, and prepared food and beverages within the County. The fee had two components: a 1.5% percent fee "county-wide," to be imposed inside the corporate limits of any municipalities within, as well as the unincorporated areas of, the County, and an additional 1% fee imposed solely in the unincorporated areas of the County. The Hospitality Fee subject to this motion and the underlying class action lawsuit is the 1.5% portion of the fee imposed within the municipalities.

The genesis of the Hospitality Fee was a failed referendum to adopt a local option sales tax to fund road improvements within the County. Ex. A, Recitals. The South Carolina Department of Transportation, at Governor Beasley's direction, thereafter created the Road Improvement and Development Effort Committee (RIDE) to determine short- and long-term transportation infrastructure needs and improvements for Horry County along with various options to fund these improvements. *Report to the Honorable David M. Beasley, Governor of South Carolina*, The Road Improvement and Development Effort, September, 1996, Preface,

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copy attached hereto and incorporated herein by reference as Exhibit B ("RIDE Report"). The RIDE Report envisioned the payment of debts associated with its projects "for a period of 15 or 20 years." *Id.* at § 5.

County Council enacted the Hospitality Fee to fund the improvements provided for in the RIDE Report. Its stated purpose was "to provide needed infrastructure" to improve roads in the County, *see* Ex. A, Recitals, and thus required that "the funds derived from the one and one-half percent fee shall be deposited into a Road Fund which will be used to implement a comprehensive road plan adopted by the County **in concert with the municipalities of the County**," *see id.* at § 1(G) ("Fee Use Provision") (emphasis added). No other use of these funds was contemplated or permitted.

Consistent with State law, Ordinance 105-96 required municipal consent to the improvements under the RIDE Report, how it would be implemented, and how its improvements would be funded before the Hospitality Fee could be collected within the municipalities' corporate limits. The governing body of the City, Myrtle Beach City Council ("City Council"), adopted a resolution supporting the recommendations of the RIDE Report, which City Council understood to "propose[] implementation of a 1.5 percent hospitality **fee for a period of up to 20 years** in partnership with the State of South Carolina, who will contribute substantial funding," and urged County Council to "enact the necessary ordinances to implement the RIDE committee report." A copy of this resolution is attached hereto and incorporated herein by reference as Exhibit C (emphasis added). Resolutions containing this same language were adopted by the remaining municipalities in Horry County in or about October and November 1996, copies of which resolutions are attached hereto and incorporated herein by reference as composite Exhibit D.

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Ordinance 105-96 became effective January 1, 1997. By its terms and under the limited consent provided by the municipalities, the ordinance expired on January 1, 2017. *See* Ex. A at § 1(H) ("Sunset Provision"); *see also* Exs. C-D (municipalities consenting only for twenty years).

To obtain financing for the road improvement plan recommended in the RIDE Report ("RIDE Project"), on October 15, 1997, County submitted an application to the South Carolina Transportation Infrastructure Bank ("SIB") for state funding in the form of a loan ("Original SIB Application"). A copy of the County's Original SIB application (less the appendix thereto consisting of the RIDE Report which includes the aforementioned municipal resolutions) is attached hereto and incorporated herein by reference as Exhibit E. These municipal resolutions are specifically referenced in the Original SIB Application. *See* Ex. E at 3. On November 20, 1997, County submitted an amended application to the SIB ("Amended SIB Application"), a copy of which is attached hereto and incorporated herein by reference as Exhibit F. In the Original and Amended SIB Applications, the County referred to the 1.5% Hospitality Fee provided for in Ordinance No. 105-96 as being the "source of local revenue" to fund the County's required contribution to the estimated cost to complete the RIDE Project. *See* Ex. E, Original SIB Application at 9; Ex. F, Amended SIB Application at 7. Consistent with the plain language of the Sunset Provision, the RIDE Report, and the municipal consents, all of which envisioned only a twenty-year term for the Hospitality Fee, the County projected it would satisfy its obligations by fiscal year 2016/2017. Ex. F at 7.

On November 18, 1997, County Council adopted its Resolution Number 224-97 which, *inter alia*, reaffirmed that the 1.5% Hospitality Fee enacted under Ordinance No. 105-96 is "to be used to provide the county portion of funding for the RIDE Plan" and, at the request of the SIB, reaffirmed the County Council's "support for the RIDE Plan," stating that it "supports, endorses

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and approves [the County's] amended application to [SIB] to be presented on November 24, 1997." *See* Exhibit G attached hereto incorporated herein by reference.

County Council amended the Hospitality Fee ordinance on other occasions prior to 2016, but no amendment was effective to change the Fee Use and Sunset Provisions.

B. County's Efforts to Expand and Indefinitely Extend the Hospitality Fee Without Municipal Consent

In 2016, and on the eve of the Hospitality Fee's expiration, County Council enacted Ordinance No. 93-16, attempting to amend Ordinance 105-96 to unilaterally lengthen the termination date of the Sunset Provision so that "the imposition of the one and one-half (1.5%) Hospitality Fee for infrastructure will terminate on January 1, 2022." *See* Ordinance No. 93-16, a copy of which is attached hereto and incorporated herein by reference as Exhibit H, at 5, § I(E). Ordinance 93-16 purported to further grant County Council authorization to use all revenues generated thereunder—including those generated by the Hospitality Fee imposed within the municipalities—for a variety of purposes not set out in Ordinance 105-96. *See id.* at 5, § I(F). On May 2, 2017, County Council enacted Ordinance No. 32-17, purporting to further amend Ordinance No. 93-16 to repeal the Sunset Provision altogether and allow the Hospitality Fee to remain in perpetuity. *See* Ordinance No. 32-17, Section I, a copy of which is attached hereto and incorporated herein by reference as Exhibit I.[1]

The County has admitted that one of the intended effects of Ordinance Nos. 93-16 and 32-17 is to "extend [the Hospitality Fee's] imposition" within the municipalities. *See* Horry County Resolution Nos. R-82-18 and R-84-18, copies of which are attached hereto and incorporated by reference as Exhibits K and L, respectively. These resolutions further express

[1] These various ordinances have been codified by the County in its Code of Ordinances as Section 19-6, a copy of which is attached hereto and incorporated herein by reference as Exhibit J.

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County's intention to use Hospitality Fee on non-RIDE projects. *E.g.*, Ex. K (proposing to "dedicate $30,000,000 annually of the 1.5% Hospitality Fee to construct the Horry County segments of I-73," which is not part of the plan provided for in the RIDE Report); Ex. L (directing staff to draft an ordinance allowing the Hospitality Fee to be used for "all eligible uses," "eligible tourism-related public safety expenditures that lead to tourist destinations," and "other tourism-related purposes besides roads").

There is no evidence the County requested the consent of the City or any other municipality prior to the enactment of any amendments that were effective to change the Fee Use and Sunset Provisions, or that any of them in fact consented, as required by law.

LAW/ANALYSIS

A party seeking a temporary injunction and restraint against further action by the opposing party must establish that "(1) it would suffer irreparable harm if the injunction is not granted: (2) it will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law." *Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 908 (2004). The requesting party must also demonstrate that an injunction is "reasonably necessary to protect the legal rights of the plaintiff in the pending action." *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 50-51, 674 S.E.2d 505, 508 (Ct. App. 2009), *modified on other grounds by Poynter Invs., Inc. v. Century Builders of Piedmont, Inc.*, 387 S.C. 583, 587, 694 S.E.2d 15, 17 (2010). Further, because the County is a governmental body, and because the actions of the County that are sought to be enjoined are beyond the scope of its constitutional and statutory authority, in order to enjoin the County from the collection of the Hospitality Fee during the pendency of this litigation, the City must demonstrate that the County's actions in illegally collecting the Hospitality Fee within the corporate limits of the respective municipalities

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beyond the Fee's express 20-year term, and its proposed use of the collected proceeds on projects beyond the scope of those approved without the required consent of the municipalities, is an exercise of its powers which is arbitrary, oppressive, or capricious. *Richland Cnty. v. S.C. Dep't of Revenue*, 422 S.C. 292, 310, 811 S.E.2d 758, 767 (2018). For the reasons explained below, each of these required elements exist in this action and this Court should enjoin the County's continued illegal collection and unjust retention of the Hospitality Fee within the corporate limits of the municipalities.

A. The City Has Demonstrated a Likelihood of Success on the Merits.

This Court examines the merits of the City's underlying claims "only to the extent necessary to determine whether [the City] has made a sufficient prima facia showing of entitlement to relief." *Compton v. S.C. Dept. of Corrs.*, 392 S.C. 361, 367, 709 S.E.2d 639, 642 (2011). "The determination of whether to grant an injunction should not be based on the merits of the underlying case except insofar as the merits may assist the trial court in determining whether a prima facie showing has been made." *Peek v. Spartanburg Reg'l Healthcare Sys.*, 367 S.C. 450, 456, 626 S.E.2d 34, 37 (Ct. App. 2005), *modified on other grounds by Poynter Invs.*, 387 S.C. at 587, 694 S.E.2d at 17. "Once a prima facie showing has been made entitling the plaintiff to injunctive relief, a temporary injunction will be granted without regard to the ultimate termination of the case on the merits." *Helsel v. City of N. Myrtle Beach*, 307 S.C. 29, 32, 413 S.E.2d 824, 826 (1991). Hence the City need not "prove an absolute legal right"; it need only "present a reasonable question as to the existence of such a right." *AJG Holdings*, 382 S.C. at 51, 674 S.E.2d at 509.

The City, on behalf of the Class, challenges the County's ability to unilaterally extend and expand the Hospitality Fee within incorporated areas of Horry County after January 1, 2017.

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If there is "a reasonable question" as to whether the County is precluded from doing so, City has satisfied this element for injunctive relief. *See id.* For the reasons set forth herein, as a matter of law, a county may impose a uniform service charge within a municipality's limits only by agreement and with consent of that municipality. Furthermore, the plain language of the Hospitality Fee demonstrates that municipality consent is required and that the municipalities provided such consent only for a limited duration. Thus, by the Hospitality Fee's own terms, and because no municipality agreed or consented to the imposition of the Hospitality Fee within its corporate limits after January 1, 2017, the County lacks the constitutional and statutory authority to unilaterally continue imposing the Hospitality Fee. Moreover, the County can no longer enact the Hospitality Fee under current South Carolina law. As a result, the County's repeal of the Sunset Provision and broadening of the Fee Use Provision without the requisite municipal consent constitutes the imposition of a new and unauthorized fee that is null and void as a matter of law.

1. South Carolina Law Requires Consent to Impose a County Uniform Service Charge Within a Municipality's Corporate Limits.

South Carolina law prohibits the imposition of a uniform service charge by county ordinance within municipal limits unless the municipality has agreed and consents, or the General Assembly expressly provides otherwise. *See, e.g.*, S.C. Const. art. VIII, § 13(A); S.C. Code Ann. § 4-9-30; *id.* § 4-9-40; *id.* § 5-7-30. Specifically, and as a matter of law, a county may only impose a uniform service charge on the provision of a specific service of the county which falls under its generally understood police powers, and which will primarily benefit those paying the fee. *See generally* S.C. Const. art. VIII, § 7; S.C. Code Ann. § 4-9-30(5)(a) (setting out the general powers which counties may exercise under the Home Rule Act, including the assessment of "uniform service charges . . . and make appropriations for functions and operations

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of the county, including . . . roads"); *Brown v. County of Horry*, 308 S.C. 180, 184, 417 S.E.2d 565, 567 (1992) (discussing the forgoing constitutional and statutory provisions and stating that "[u]nder Home Rule, a county can impose a service charge . . . upon those for whom **the service** is primarily provided.") (emphasis added).

However, a county may not perform its functions or provide services within the corporate limits of a municipality, and therefore may not impose a uniform service charge within a municipality's limits, without the express agreement and consent of that municipality or an independent statutory grant of authority. *See* S.C. Const. art. XIII, § 13(A); *see also* S.C. Code Ann. § 4-9-40 ("Any county may perform any of its functions, furnish any of its services within the corporate limits of any municipality, situated within the county, **by contract** with any individual, corporation or municipal governing body, **subject always to the general law and the Constitution of this State regarding such matters. Provided, however, that where such service is being provided by the municipality or has been budgeted or funds have been applied for that such service *may not be rendered without the permission of the municipal governing body.***") (emphasis added); *id.* § 5-7-30 (granting municipalities the power to enact their own uniform service charges); *cf.* S.C. Code Ann. § 5-7-60 (prohibiting a municipality from providing its services in an unincorporated area where, *inter alia*, a county already provides such services).

South Carolina law thus preserves the autonomy of municipalities within their borders and absent their consent or an express statutory provision to the contrary. The County enacted the Hospitality Fee under S.C. Code Ann. § 4-9-30(5)(a). *See Brown*, 308 S.C. at 182-84, 417 S.E.2d at 566-67. However, Section 4-9-30(5)(a) does not grant the County the authority, and thus the County is constitutionally and statutorily constrained by its authorized powers from

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unilaterally imposing the Hospitality Fee within the limits of any municipality. S.C. Code Ann. § 4-9-40. Hence the municipalities provided written consent to the Hospitality Fee through January 1, 2017. *See* Exs. C and D. Because the municipalities have not consented to the imposition of the Fee within their corporate limits beyond that date, the County's collection of it from and since that date—which is continuing—is unlawful.

2. The Hospitality Fee Is Self-Limiting and Requires Municipal Consent by Its Own Terms, Rendering the Unilateral Amendments an Ineffective New Fee.

Moreover, the terms of Ordinance 105-96 are self-limiting and also require consent. It allowed only for the collection of a fee "which will be used to **implement a comprehensive road plan adopted by the County in concert with the municipalities of the County**." Ex. A at § 1(G) (emphasis added); *cf.* S.C. Code Ann. § 4-9-40. This language has not been changed or repealed.[2] The County therefore could collect the Hospitality Fee only to the extent the municipalities still consented to this "comprehensive road plan."

[2] County Council has attempted to modify portions of the Ordinance 105-96 in the years after its adoption, including the Sunset Provision even prior to Ordinances 93-16 and 32-17. Specifically, for instance, Ordinance 11-04 purported to modify the Sunset Provision by providing that "the one and one-half percent portion of **the hospitality fee** deposited into the road special revenue fund, **is to be extended** for an additional period **not to exceed five years**, which extension expires Jan. 1, 2022." (Emphasis supplied). However, this "extension" and "not to exceed" language is substantively different than that contained in the Sunset Provision of Ordinance 105-96 (which, with the City's consent, provides only for a **termination** of that ordinance twenty years from its effective date [*i.e.*, January 1, 2017]), as it does not provide for any definite termination date. Such an attempted indefinite extension of the Hospitality Fee without the consent of the municipalities was beyond the scope of the County's statutory authority and unlawful, for the reasons discussed herein, as well as wholly without merit for a number of other reasons. As a prefatory matter though, the language in Ordinance 11-04 was never included in codified Section 19-6. Rather, it was only referenced in an Editor's Note. Accordingly, this reference did not make Ordinance 11-04 technically and substantively effective to amend the Sunset Provision or Section 19-6, even if adopted and "codified" by County Council.

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As acknowledged and represented to the SIB by the County, this "comprehensive road plan" was the project provided for in the RIDE Report, *i.e.*, the "RIDE Plan." *See* Ex. F at A-2.[3] Just as envisioned by the RIDE Report's funding timeline, the municipalities consented to the imposition of this fee to support the RIDE Plan only for a period of up to twenty years. As limited by the RIDE Report, the SIB Application, and the municipalities' consent, Ordinance 105-96's Sunset Provision expressly limited its duration to twenty years from the effective date of the ordinance. *See* Ex. A, Ordinance No. 105-96 at B-5. There is no evidence any municipality consented to an ordinance which had the effect of altering this original agreement. The lack of consent precludes the County from imposing the Hospitality Fee within the corporate limits of any Horry County municipality and invalidates the Hospitality Fee by its own terms. Any extension of the Hospitality Fee, whether in time or scope, without municipal consent is not "implement[ing] a comprehensive road plan adopted by the County in concert with the municipalities of the County," and is violative of S.C. Const. art. VIII, § 13(A) and S.C. Code Ann. § 4-9-40.

As a final matter, the County's effort to extend and expand the Hospitality Fee amounts to the creation of a new fee—a fee that cannot be enacted under current South Carolina law. The statutory authority underpinning the Hospitality Fee changed drastically when 1997 Act No. 138 became effective shortly after the County passed the fee. In pertinent part, Act 138 added S.C. Code Ann. § 6-1-330 to place new procedural and substantive restrictions on uniform service charges. Act 138 also provided for a new local accommodation tax, not uniform service charge, in Article 5 to Title 6, Chapter 1. Similarly, Act 138 created Article 7 of Title 6, Chapter 1 to allow local governments to impose local hospitality taxes—not fees—on the sale of prepared

[3] "Ordinance Number 105-96 implemented a one and one-half percent Hospitality Fee to be used to provide the county portion of funding for the Ride Plan."

food and beverage. These taxes cover the same transactions as the accommodations and prepared food and beverage portions of the Hospitality Fee and thus supplanted any prior authority to impose a new uniform service charge on these transactions. No taxing authority exists for amusements. *See* S.C. Code Ann. § 6-1-310 ("A local governing body may not impose a new tax after December 31, 1996, unless specifically authorized by the General Assembly.").

The General Assembly grandfathered uniform service charges adopted before December 31, 1996, under this new scheme. S.C. Code Ann. § 6-1-330(A). It further grandfathered accommodations fees existing as of March 15, 1997. *Id.* § 6-1-760(B). The Hospitality Fee therefore remained in force and effect, though still limited by its own express terms. *See id.* § 6-1-330(A) (stating the grandfathered fee "remains in force and effect until repealed by the enacting local governing body"). Here, through the express inclusion of the Sunset Provision upon which the respective municipalities based their consent to the Hospitality Fee's imposition, Ordinance 105-96's repeal was self-executing on January 1, 2017 under the express enactment by the County. Extending and expanding the Hospitality Fee without consent necessarily constitutes a new, and invalid, uniform service charge.

In sum, the County's ordinances attempting to modify the duration and scope of the Hospitality Fee are legally inoperative and cannot extend the life of, or permitted uses of revenues derived from, the Hospitality Fee. The County's authority to collect these fees terminated on January 1, 2017—just as the County, RIDE Report, SIB loan, and consenting municipalities all contemplated and agreed. No municipality has consented or agreed to anything further or different and therefore the Hospitality Fee is being, and has been since January 1, 2017, unlawfully imposed and collected.

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B. The Class Members Will Suffer Irreparable Harm for Which No Adequate Remedy at Law Exists If This Court Does Not Enjoin the Continued Imposition and Collection of the Hospitality Fee.

Irreparable harm and inadequate remedy at law "are closely related, if not identical, concepts." 35 Am. Jur. 2d *Federal Tax Enforcement* § 1054. The Supreme Court long ago recognized in an analogous context that "[i]t is not only within the power of a court of equity, but the duty rests upon it, to enjoin the collection of an illegal tax in those cases where no adequate remedy is provided for the aggrieved tax payer," such as a right to pay under protest and recover in court. *Santee River Cypress Lumber Co. v. Query*, 168 S.C. 112, ___, 167 S.E. 22, 22 (1932); *see also Riverwoods, LLC v. Cnty. of Charleston*, 348 S.C. 378, 563 S.E.2d 651 (2002) ("Although a taxpayer may enjoin the collection of an illegal tax if he is afforded no adequate remedy, where there is a legal remedy by payment under protest, then an injunction is inappropriate."). Indeed, "[u]nder the common law, no other remedy was regarded as adequate" for an illegal tax besides injunctive relief. *Ware Shoals Mfg. Co. v. Jones*, 78 S.C. 211, ___, 58 S.E. 811, 813 (1907). Absent some other sufficient remedy provided by statute, the court is "forced to the conclusion that [a taxpayer] has no adequate remedy at law if the act requiring the tax is null and void."[4] *Id.*

These long-standing common law rules protecting taxpayers from illegal taxes apply with the same force to uniform service charges, which similarly are collections by the government to fund public services. *Brown*, 308 at 183, 417 S.E.2d at 576 (discussing the legally significant

[4] In another analogous set of circumstances, the Supreme Court also recognized the right of a taxpayer to bring in a representative capacity an action to enjoin "an unlawful diversion of public funds" which "leads directly or indirectly to taxation." *See Shillito v. City of Spartanburg*, 214 S.C. 11, 22, 51 S.E.2d 95, 99 (1948); *see also Kirk v. Clark*, 191 S.C. 205, ___, 4 S.E.2d 13, 15 (1939) ("The principle is firmly settled in this State that a taxpayer may maintain an action in equity, on behalf of himself and all other taxpayers, to restrain public officers from paying out public money for purposes unauthorized by law").

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distinction between fees and taxes and holding a uniform service charge "[p]rovides county government with the option of imposing service charges or user fees upon those who use county services in order to reduce the tax burden which otherwise would have to be borne by taxpayers generally"). While the General Assembly has provided a procedure to challenge the imposition of certain taxes, no such procedures exist for uniform service charges.[5] Thus no statutory remedy or mechanism for a challenge exists. It is in these situations that equity intervenes. Hence each cause of action the City asserts in the Complaint is equitable, not legal. With no recourse at law available, this Court, like our Supreme Court in *Ware Shoals Manufacturing*, is "forced to the conclusion that [City] has no adequate remedy at law if the act requiring the [Hospitality Fee] is null and void." *See* 78 S.C. at ___, 58 S.E. at 813.

The City and the members of the Class therefore lack an adequate remedy at law and will suffer irreparable harm if equitable relief is not available to them. The right to injunctive relief in such situations has been an established right under South Carolina law since the 1800s. *Id.* at ___, 58 S.E. at 812. This Court should recognize this right on the part of the City (and others who have paid the Hospitality Fee on or after January 1, 2017, or are subject to paying it on a going forward basis) and enjoin the County's illegal fee.

C. An Injunction is Reasonably Necessary to Protect the Legal Rights of the Class Members.

[5] The Revenue Procedures Act, S.C. Code Ann. §§ 12-60-10, *et seq.*, provides detailed procedures "to determine a dispute with the Department of Revenue and a dispute concerning property taxes," *see* S.C. Code Ann. § 12-60-30, for which a taxpayer may seek a refund, *see* S.C. Code Ann. §§ 12-60-470 and 12-60-1750. No such procedures exist for uniform service charges imposed by counties, which fall outside of the Revenue Procedures Act. *See id.* § 12-60-30(18) (defining "[p]roperty tax" as "ad valorem taxes on real and personal property"); *id.* § 12-60-30(27) (defining "[t]ax or [t]axes" as "taxes, licenses, permits, fees, or other amounts, including interest, regulatory and other penalties, and civil fines, imposed by this title, or subject to assessment or collection by" the Department of Revenue).

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As there is no adequate remedy at law to protect the City and class members' rights, equity must provide relief. The only way to safeguard these rights during the pendency of this litigation is an injunction. Moreover, the City and members of the Class will be forced to pay nearly double what they currently pay as this case progresses absent an injunction. On March 7, 2019, the City passed Ordinance Nos. 2019-22, 2019-23, and 2019-24, which collectively impose a 3% accommodations tax and 2% hospitality tax.[6] Copies of these ordinances are attached hereto and incorporated by reference as Exhibits M, N, and O respectively. These taxes go into effect on July 1, 2019. Similarly, the Town of Surfside Beach has enacted, and the Town of Aynor, City of Conway, and City of North Myrtle Beach are in the process of enacting, similar ordinances providing for such accommodations and hospitality taxes to be imposed within their corporate limits. Copies of the Town of Surfside Beach ordinances are attached hereto and incorporated herein by reference as Exhibits P and Q.

The County remains defiant and insists it nevertheless will continue to illegally collect the Hospitality Fee despite these properly-enacted taxes, which supersede the County's authority within the corporate limits of the municipalities. If the Hospitality Fee remains in effect during the pendency of this litigation, the City and members of the Class will face paying an unlawful fee and proper local taxes—a cumulative 6% on accommodations and 4.5% on prepared food and beverage—in addition to the State sales tax and any other fees or taxes. Injunctive relief is

[6] Prior to the expiration of the Hospitality Fee, the combination of City and County ordinances and fees was a follows: 0.5% City accommodations tax, 1.0% City uniform service charge on accommodation, and the 1.5% Hospitality Fee, for a total of 3% on accommodations; and 1.0% uniform service charge on prepared food and beverage and the 1.5% Hospitality Fee, for a total of 2.5% on prepared food and beverage. *See* Exs. M and N. Amusements were subject only to the 1.5% Hospitality Fee. As of July 1, 2019, within the City there will be a 3.0% accommodations tax, 2.0% hospitality tax, and no tax or fee on amusements. *See* Exs. M and N. The City's grandfathered uniform service charge will remain in effect, but payers receive a credit for it on any taxes they pay. *See* Ex. O.

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the only avenue to ensure the City and class Members pay only a single, properly enacted hospitality and accommodations charge on a given transaction.

Finally, the County has deprived municipal residents of their voice in the imposition of a uniform service charge within municipal limits. The County originally conditioned the Hospitality Fee on the consent of each municipality. This was a recognition not just of the legal requirement that consent be obtained, but also that municipal residents, via their local elected representatives, deserved input on whether a fee would be imposed upon them within their boundaries and the terms of such a fee. By County fiat, that decision now rests with County Council, some of whom are not elected by residents of one or more municipalities in which the Hospitality Fee is being imposed and collected.[7] The County has silenced these residents by unilaterally extending and expanding the Hospitality Fee without seeking consent and, in fact, over the explicit objections of each municipality. An injunction is needed to restore the voice of municipal residents.

D. The County's Conduct in Unilaterally Terminating the Sunset Provision of the Hospitality Fee that Formed the Basis of the Municipalities' Limited Consent was Done in Bad Faith and was Arbitrary, Capricious, or Oppressive to the Legal Rights of the Class Members.

In order "to enjoin a public corporation or department of government in the performance of actions or duties provided by statute, there must be allegations or showing that the public department or corporation has exercised its power in an arbitrary, oppressive or capricious manner." *Headdon v. State Highway Dep't*, 197 S.C. 118, 14 S.E.2d 586, 588 (1941); *see also Richland Cty.*, 422 S.C. at 310, 811 S.E.2d at 767. As an initial matter and as discussed herein

[7] This can be seen in the County's on-line district map. *See* https://hcg.maps.arcgis.com/home/webmap/viewer.html?webmap=02595aede8594611b340ba237b59bdec. By contrast, all members of the governing body of the municipalities are elected by the residents of those municipalities.

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above, the County's actions in attempting to unilaterally extend the limited duration of the Hospitality fee by eliminating the Sunset Provision in violation of the express consent of the respective municipalities is violative of the County's constitutional and statutory authorities, *see, e.g.*, S.C. Const. art. VIII, § 13(A) and S.C. Code Ann. § 4-9-40; thus, the within lawsuit and motion for prohibitory injunctive relief does not seek to enjoin the exercise of the County's lawful actions or duties. Instead, this motion seeks to enjoin the County's actions which are demonstrably outside the scope of those recognized statutory constraints. *See Richland Cty.*, 422 S.C. at 310-11, 811 S.E.2d at 768 ("[I]n order to enjoin a governmental agency from exercising its discretion, a complainant must show the agency's actions are outside its statutory duties ....") (citing 42 Am. Jur. 2d Injunctions § 158).

Regardless, the County's admitted actions in attempting to unilaterally alter the agreed-upon duration of the Hospitality Fee—first through a five-year extension in Ordinance 93-16 and later, apparently emboldened by its undetected effort to extend the life of the Hospitality Fee, through the elimination of the Sunset Provision altogether in Ordinance 32-17—were craven, extra-constitutional, and extra-statutory actions demonstrating bad faith and corrupt intent towards the rights of the Plaintiffs and impacted municipalities. It certainly begs the question that if the imposition of the Hospitality Fee within the municipalities' corporate limits required their consent, which it does under the law and which the County understood back in 1996, then under what circumstances—other than an arbitrary and capricious attempt to continue benefitting from the substantial funds collected under the Hospitality Fee—would the County believe that it had the authority to take such unilateral action without the continued consent and agreement of the municipalities? Indeed, the County's arbitrariness and bad faith is demonstrated in full by its acknowledgment that consent of the municipalities was required in 1996, only to reverse course

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at the expiration of the Hospitality Fee in order to attempt to appropriate indefinitely the funds generated by the Hospitality Fee for ordinary County services. No circumstances are present which would justify the County's actions; therefore, it is reasonable to infer that the County's actions were intentionally surreptitious and wantonly injurious to the rights of the municipalities and the Hospitality Fee-paying members of the proposed class represented by the City.

Reflective of the County's disdain for the merits of its actions, its responsive pleading and related press statements have been long on political responses and devoid of legal arguments; instead, the County has gone to great lengths to castigate the City as greedy for initiating this lawsuit. This despite the County's apparent (or convenient) misunderstanding that the City's proposed role as class representative is simply as a payor of the illegal Hospitality Fee since January 1, 2017, and not an attempt to recoup all of the illegally collected service fees for its own use. Notwithstanding, even members of County Council explicitly recognized that Ordinance 32-17 would allow the County to continue to collect the Hospitality Fee for purposes other than the services which served as the basis for the fee in the first place, as well as allow County Council to commit those fees before it even had any projects to fund. *See, e.g.*, Horry County Council Meeting Minutes, April 18, 2017, at 3, a copy of which is attached hereto and incorporated herein by reference as Exhibit P (statements attributed to Councilman Harold Worley that "[t]o collect a tax [sic] that they didn't know what they would spend it on didn't seem right. There was something wrong with that. . . . They were asking him to tax [sic] the people, whether tourist or locals, when he didn't know what the money would be used for."); Horry County Council Meeting Minutes, May 2, 2017, at 1, a copy of which is attached hereto and incorporated herein by reference as Exhibit Q ("Mr. Prince said the reason that he was opposed to vote Yea on **Ord. 32-17** was that he thought people needed to know which projects

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the money would be spent on before it was approved."). Yet, the County's governing body saw its spigot closing and felt compelled to act to keep the funds flowing the County's way even with nothing to spend them on. *See* Ex. Q, May 2, 2017 County Council Minutes, at 4 (County attorney Arrigo Carotti stating in response to a question of "were they under urgency" that "they had been apprised of the problem that they would lose their grandfathered status once they paid off the SIB loan never to be recovered").

The County repealed the Sunset Provision and expanded the Fee Use Provision to "extend the imposition" of the Hospitality Fee within the municipalities' corporate limits. Ex. K, Resolution R-82-18, Recitals; Ex. L, Resolution R-84-18, Recitals. Despite knowing municipal consent was required under S.C. Const. art. VIII, § 13(A) and S.C. Code Ann. § 4-9-40, and despite originally acting consistent with its constitutional and statutory constraints in obtaining the municipalities' permission upon the institution of the Hospitality Fee, the County acted in bad faith in arbitrarily and capriciously abandoning its prior conformance with the law in deciding to unilaterally attempt to extend the Hospitality Fee in perpetuity. In failing to request the municipalities' consent in order to protect its grandfathered status and keep the funds for its own future *ad hoc* uses, the County acted in an oppressive manner towards the fee-paying residents and visitors to the impacted municipalities. The County's efforts to avoid constitutional and statutory obligations for its benefit and to the detriment of the City, on behalf of the members of the proposed class, as well as the other representative municipalities, is arbitrary, capricious, oppressive, and wantonly injurious to Plaintiff's rights.

CONCLUSION

For the foregoing reasons, the City respectfully requests that this Court enjoin the County from collecting any additional funds raised by the Hospitality Fee from transactions occurring

within municipal limits, and further enjoin the County from spending any Hospitality Fee funds collected within municipal limits since January 1, 2017.

Respectfully submitted,

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Columbia, South Carolina
May 3, 2019

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Exhibit A

STATE OF SOUTH CAROLINA)
) ORDINANCE NO. 105-96
COUNTY OF HORRY)

AN ORDINANCE IMPOSING A TWO AND ONE-HALF PERCENT HOSPITALITY FEE IMMEDIATELY.

WHEREAS, A plan which offered long-range solutions to this area's road problems failed to pass; and

WHEREAS, The need for road improvement continues and will in all likelihood increase in the future; and

WHEREAS, Considerable time and effort was expended by the Governor's RIDE Committee to establish a new plan and a new timetable; and

WHEREAS, All past efforts to institute a local options sales tax have failed, thus making difficult the possibility of using the largest single revenue generator available; and

WHEREAS, Current law allows local government to levy reasonable and necessary fees to provide needed infrastructure.

NOW THEREFORE, BE IT ORDAINED IN COUNCIL DULY ASSEMBLED,

SECTION 1. (A) **Establishment of Hospitality Fee.** There is established a uniform service charge, hereinafter referred to as the "hospitality fee," equal to one and one-half percent (1.5%) within the geographic confines of Horry County, with an additional hospitality fee equal to one percent (1.0%) within the unincorporated areas of Horry County only. These fees shall be imposed on:

(1) the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code applies;

(2) those paid admissions to places of amusement within the County to which the admissions tax imposed by the State of South Carolina pursuant to Section 12-21-2420, et seq. of the South Carolina Code, applies (golf fees not to begin until 7/1/97); and

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(3) the gross proceeds derived from the sale of food and beverages sold in establishments which primarily have as their business purpose the sale of prepared food for immediate consumption either on or off premises; or maintain licenses for the on-premise consumption of alcohol, beer or wine.

(B) **Payment of the Hospitality Fee.** Payment of the hospitality fee shall be the liability of the consumer of the services described in Section 19-51 subsection (A). The hospitality fee shall be paid at that time of the delivery of services to which the hospitality fee applies, shall b3e collected by the provider of the services,and shall be held in trust by the provider until remitted as provided for herein.

(C) **Collection of the Hospitality Fee.** The hospitality fee imposed by this section is due and payable in monthly installments on or before the twentieth day of each month and every person liable for the fee shall on or before the twentieth day of each month make a true and correct return to the County in such form as it may prescribe and remit the fee therewith. A return is considered to be timely filed if the return is mailed and has a postmark dated on or before the date the return is required to be filed. In case of a failure to make a true and correct return or a failure to file the return, the County shall make a return upon such information as it may be able to obtain, assess the fee due thereon, and add a penalty of ten percent, whereupon the County shall mail notice to the person liable for the fee and, in the case of failure to pay the fee within ten days after the mailing of any such notice, the County shall add an additional penalty of ten percent.

(D) **Inspections and Audits.** For the purpose of enforcing the provisions of this section the County Administrator or other authorized agent of the County, is empowered to enter upon the premises of any person subject to this section and to make inspections, examinations and audits of books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hours written notice. In the event that an audit reveals that false information has been filed by the remitter, the costs of the audit shall be added to the correct amount of fees determined to be due, in addition to the penalties provided in subsection (C). The County Administrator or other authorized agent of the County may make systematic inspection of all businesses within the County, to ensure compliance with this section. Records of inspection shall not be deemed public records.

(E) **Penalties.** (1) It is a violation of this section to:

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(a) fail to collect the hospitality fee;

(b) fail to remit to the County any hospitality fee collected;

(c) fail to file a hospitality fee; return.

(d) knowingly provide false information on a hospitality fee return;

or

(e) fail to provide books and records to the County Administrator or other authorized agent of the County for the purpose of inspection, examination, or audit after twenty-four (24) hours written notice.

(2) Each day this section is violated constitutes a separate offense.

(3) Upon conviction of this section, the violator is guilty of a misdemeanor and subject to a fine or forfeiture not exceeding five hundred dollars or imprisonment not exceeding thirty days, or both.

(F) **Start-up Funds and Administration of Hospitality Fee.** The County Administrator is responsible for the implementation, collection, and enforcement of the hospitality fee and, upon mutual agreement with the County Auditor and County Treasurer, the County Administrator may provide for the implementation, collection, and enforcement of the hospitality fee through the County Auditor and County Treasurer.

(G) **Disposition of Hospitality Fee.** All revenues collected fro the hospitality fee shall be deposited in two separate funds. The funds derived from the one and one-half percent fee shall be deposited into a Road Fund which will be used to implement a comprehensive road plan adopted by the County in concert with the municipalities of the County. The money in this Fund shall be held in escrow until the said comprehensive road plan is finalized and adopted. Interest generated by this fund shall accrue to the fund. The funds derived for the one percent fee shall be deposited in the general fund of the County to offset the cost of public safety and public works services and infrastructure directly impacted by tourism. In the case of either fund, the costs of collecting

the monies may be reimbursed by the fund monies, up to a maximum of one percent (1%).

(H) **Sunset.** The imposition of the one and one-half (1.5%) percent hospitality fee for infrastructure will terminate (a) on 8/1/97 if an appropriate agreement or legislation is not in place fro the State of South Carolina to provide their share of the short term funding plan outlined by RIDE or (b) twenty years from the effective date of this ordinance. Should the one and one-half (1.5%) percent hospitality fee be terminated on 8/1/97, all funds collected will be placed in the general fund of the County and used for services directly impacted by the tourism industry (see G above).

SECTION 2. SEVERABILITY.

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

SECTION 3. CONFLICTING ORDINANCES REPEALED.

All ordinances or parts of ordinances in conflict with the provisions of this ordinances are hereby repealed.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be effective 1/1/97.

FIRST READING: August 6, 1996
SECOND READING: August 20, 1996
THIRD READING: October 15, 1996

ATTEST:
Rosella H. Carroll
Rosella H. Carroll, Clerk to Council

B-5 1995 AGE 841

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HORRY COUNTY COUNCIL

A. Joseph McNutt, Jr., Chairman

Ray Skidmore, Jr., District 1

John Kost, District 2

Raymond J. Brown, District 3

Chandler Brigham, District 4

Chandler C. Prosser, District 5

Terry Chambers, District 6

James R. Frazier, District 7

Elizabeth D. Gilland, District 8

Ulysses Dewitt, District 9

Johnny Shelley, District 10

Janice Jordan. District 11

ATTEST:

Rosella H. Carroll, Clerk to Council

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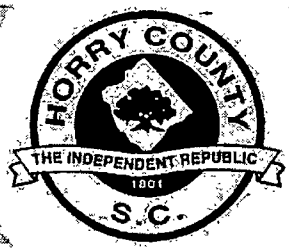
Exhibit B

TRANSPORTATION and HORRY COUNTY



REPORT

to the

Honorable David M. Beasley
Governor of South Carolina

prepared by:

The Road Improvement
and Development Effort
September 1996

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PREFACE

To those before us ...

South Carolina's Grand Strand has grappled with solutions to severe traffic congestion since 1984, when the Myrtle Beach Chamber of Commerce created the Area Council on Transportation (ACT). The purpose of ACT was to inform state officials of dangerous travel conditions and potential revenue losses statewide resulting from increasing tourism and commuter traffic on U.S. Highways 17 and 501. ACT's efforts to raise the consciousness of elected officials were successful, but the only solution proposed in the mid-1980s was the controversial Conway Bypass, for which state funding and grass roots support were limited.

Community business leaders saw the Conway Bypass as one step in what should have been a multi-step plan to save lives and foster tourism growth. As ACT worked diligently on trying to make the Conway Bypass a reality, a group of local leaders called the Planning Council, initiated work on what was later to become the Carolina Bays Parkway. This led to the formation of the Carolina Bays Parkway Task Force by then State Highway Commissioner Billy Alford in November 1990, which became a named demonstration project in the *Intermodal Surface Transportation Efficiency Act of 1991*. The Carolina Bays Parkway unlike the Conway Bypass had grass roots support but no way to fund its construction.

For over a decade, no planning or funding mechanism evolved to build the much needed highways in Horry County until leaders initiated an unsuccessful local option sales tax referendum in March 1996. Meanwhile economic forecasts reported South Carolina was losing approximately $1 billion annually in revenue due to heavy traffic driving visitors to North Carolina beaches and other vacation sites.

Survey for the future

This loss of revenue continues to threaten South Carolina's economy and endangers lives. That's why Governor David Beasley called upon his own staff, the Horry County Legislative Delegation, and local citizens to form an emergency response team to recommend immediate action to address traffic safety and its corollary concerns: job preservation and hurricane evacuation.

The Governor of South Carolina, working through the South Carolina Department of Transportation, has taken the initiative to: (1) survey the transportation infrastructure needs of Horry County for the next 20 to 30 years (identifying short term, as well as long term needs); and (2) evaluate how these needs can best be financially realized and implemented.

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The Chairman of the South Carolina Department of Transportation, at the direction of the Governor, created the Road Improvement and Development Effort Committee (RIDE) to determine short and long term transportation infrastructure needs and improvements for Horry County along with various options to fund these improvements.

The RIDE Committee

The RIDE Committee consists of nine people with varied backgrounds and interests: Mr. Gary M. Loftus (Chairman), Mr. Frankie Blanton (Vice Chairman), Mr. Edward Bouknight (concerned citizen), Mr. Harry Charles (Councilman, City of Myrtle Beach), Mr. James Frazier (Councilman, Horry County), Mr. John Kost (Councilman, Horry County), Mr. Edward Rodelsperger (Horry County School Board), Ms. Suzette Rogers (Myrtle Beach Chamber of Commerce Board of Directors), and Mr. Frank Thompson (concerned citizen). The Committee was formed in May 1996 to perform an analysis of road needs, possible funding sources, and oversee the development of a report to be submitted to the Governor in September 1996.

The Committee collected technical information from various engineering and planning groups and individuals concerning transportation issues and held several public meetings throughout Horry County. Concurrently, the Committee attempted to develop an understanding of social, technical, political, and jurisdictional issues which have complicated the solutions and frustrated previous efforts of both the public and private sectors.

This report responds to the Governor's directive through the sections outlined below:

- Section 1 - Introduction
- Section 2 - Short Term Recommendations
- Section 3 - Long Term Recommendations
- Section 4 - Financing Recommendations
- Section 5 - Implementation Recommendations
- Section 6 - Conclusion

Thanks and Appreciation

The Committee received invaluable assistance and support from City, County, State, and Federal personnel familiar with various aspects of the transportation problem. They, together with knowledgeable private citizens, made this report possible in the short time allowed. Their data, candor, and most important, their apparent eagerness to participate in a problem-solving effort too large for any one entity was critical in maintaining focus and momentum toward the success of this report. For their help we are very grateful.

The Committee would like to acknowledge the assistance, cooperation, and guidance of the South Carolina Department of Transportation Chairman, Mr. H.B. "Buck" Limehouse, the personnel of the Department who provided information and services necessary for the preparation of this report, and Mr. Robert Probst of the Federal Highway Administration.

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Section 1.0
INTRODUCTION

"Urgent steps must be taken to better maintain our highways and airways or South Carolina faces a transportation crisis."
-- David E. Parson, President of AAA Carolinas.

Following an unsuccessful referendum vote on Horry County's Comprehensive Road Plan on March 5, 1996, the Chairman of the South Carolina Department of Transportation (SCDOT), at the direction of the Governor, created the Road Improvement and Development Effort Committee (RIDE). This Committee was charged with the development of a roadway improvement plan that would relieve traffic congestion in Horry County through implementation of short and long term solutions. The Committee also was directed to develop a potential funding program that would address Horry County's short term needs, as well as provide ideas that might be implemented to fund the long term requirements.

REFERENDUM HISTORY

In January 1995, Horry County Council instructed the County Administrator to develop a road plan that combined existing efforts in order to accomplish the construction of major projects (such as the Conway Bypass and Carolina Bays Parkway) and provide improved mobility for the citizens of Horry County.

Horry County Comprehensive Road Plan

For years, many interested individuals and organizations worked on individual components of what became ultimately the Comprehensive Road Plan that had been endorsed by the Horry County Council and the Horry County Legislative Delegation. These organizations included the Area Council on Transportation (ACT), Carolina Bays Parkway Task Force, Council of Myrtle Beach Business Organizations (COMBO), Horry County Transportation Committee (CTC) appointed by the Legislative Delegation, Grand Strand Area Transportation Study (GSATS), and Horry County Department of Public Works through funds appropriated by the Horry County Council. Legislation passed during the 1995 session of the South Carolina General Assembly provided the local option sales tax for roads as a possible source of revenue allowing a much broader approach to be taken to solve the transportation needs. Horry County's Comprehensive Road Plan suggested that the combination of talents and resources that might have contributed to an innovative and pro-active model for highway construction statewide. Working together, the organizations pooled their resources to try to produce mega projects such as the Conway Bypass and Carolina Bays Parkway while at the same time providing much needed relief in rural areas along with the expansion of two critical state routes.

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Traditional methods of highway construction were very quickly determined to be inadequate or nonexistent in view of statements made by the SCDOT and the Federal Highway Administration concerning the availability of funding. Specifically, the SCDOT indicated that the Conway Bypass might be built by the year 2019 but did not suggest any way to construct the Carolina Bays Parkway, upgrade S.C. 544 or S.C. 9, and did not address rural needs at all.

Utilizing existing statistical data and projections produced by the E. Craig Wall Sr. School of Business Administration and Computer Science at Coastal Carolina University, the Comprehensive Road Plan recommended combining a number of funding sources including the local option sales tax for infrastructure that required a referendum. Based on sales tax figures and utilizing the 25-year sunset clause in the enabling legislation, it was possible to project total revenues available through the addition of the one percent local option sales tax. This resource, in combination with a local hospitality fee and other sources, such as the CTC state gas tax dollars called "C" funds, GSATS funds, and County Department of Public Works funds, provided $2.49 billion in revenues for the construction of projects and the amortization of associated general obligation debts. Projects identified by Horry County Council for construction included the Conway Bypass, Carolina Bays Parkway, S.C. 544 (five lanes between the Socastee bridge and Conway), S.C. 9 (four lanes from Green Sea to county line), and paving of approximately 600 miles of the 970 total miles of county dirt roads, for a total estimated construction cost of $1.48 billion.

But the referendum failed by a margin of greater than 2:1 . . .

THE RIDE COMMITTEE

RIDE Committee

The RIDE Committee, formed in May 1996, held their first meeting on May 16, 1996. The Committee met every Thursday after that (with the exception of July 4, 1996, and July 12, 1996 due to Hurricane Bertha) and twice weekly beginning July 29, 1996 through August 23, 1996. The Committee also held three public meetings (June 17, 1996, June 24, 1996, and July 1, 1996, Appendix A), at which they received public input, prior to formulating their plan.

The following sections of this Report, present our recommendations to the Governor.

"Make big plans; aim high in hope and work ..."
-- Daniel Burham

THE PROPOSED SHORT TERM PLAN

The short term improvement recommendations, as described below, include projects that are currently ongoing and projects that could be implemented by the year 2005 (Table 1). These projects will incorporate portions of the GSATS Long Range Plan as approved in March 1996. As shown in the figure titled Recommended Short Term Improvements, the proposed short term plan includes:

- **Conway Bypass** - construct the six-lane section (as originally designed) between U.S. 17 and Long Bay Road, with an interchange at Long Bay Road or the Carolina Bays Parkway. From Long Bay Road to S.C. 90, construct six lanes of fill and bridges but pave four lanes. From S.C. 90 to S.C. 905, construct three lanes of fill and bridges but pave two lanes. From S.C. 905 to S-97, construct two lanes of fill and bridges and pave both lanes.

  The RIDE Committee proposes that the SCDOT fund the portion of the Conway Bypass between U.S. 17 and S.C. 90 as "*Advance Construction*" under federal guidelines and "*set aside*" federal funding in the next 25 years in the State Transportation Improvement Program (STIP) to "*pay back*" the initial early completion of the project. The impact to Federal Highway Administration funding provided to SCDOT would not be adversely affected in any given year, but instead the payment requirements would be spread evenly over the Federal Program for up to 25 years, causing much the same effect as building the project over time. The advantages of this funding scenario are: (1) early completion of the Conway Bypass would immediately relieve congestion in Conway, improve safety, and provide an additional hurricane evacuation route in the area and would enhance other solutions proposed by the RIDE Committee; (2) the SCDOT would avoid the inflation on construction costs over the next 25 years (which would possibly double in cost); and, (3) the Conway Bypass could be completed with efficiencies gained from a design/build concept.

- **Carolina Bays Parkway** - construct six lanes of fill and bridges but pave four lanes of the Parkway from S.C. 9 to the intersection of Perry Road and River Oaks Drive Extension (including Central Parkway Connector which would be four lanes). Intersections with S.C. 9 and Central Parkway will be signalized at-grade intersections.

- S.C. 544 - widen to five lanes between the Socastee bridge and U.S. 501 to improve capacity and, accelerate the construction of the five lane section between U.S. 17 and the Socastee bridge.

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Table 1
RECOMMENDED SHORT TERM IMPROVEMENTS

PROJECTS	RESPONSIBLE PARTY	*PRELIMINARY* PROJECT COST (1996 $)	METHOD OF PAYMENT	
			$330,000,000 BOND ISSUE	HORRY COUNTY RESIDUAL CASH FLOW*
CONWAY BYPASS				
Existing design from U.S. 17 to Long Bay Road (6-lane section, including U.S. 17 interchange)	SCDOT/FHWA/ RIDE	$65,900,000	"Advance Construction"	
Diamond interchange at Long Bay Road and Conway Bypass	SCDOT/FHWA/ RIDE	$6,100,000		
Long Bay Road to S.C. 90 (6-lane fill and bridges, paving 4 lanes)	SCDOT/FHWA/ RIDE	$54,400,000		
Diamond interchange at S.C. 90 and Conway Bypass	SCDOT/FHWA/ RIDE	$7,800,000		
S.C. 90 to S.C. 905 (3-lane fill and bridges, paving 2 lanes)	RIDE/ STATE OF S.C.	$37,100,000	$37,100,000	
S.C. 905 to S-97 (2-lane fill and bridges, paving 2 lanes)	RIDE/ STATE OF S.C.	$42,000,000	$42,000,000	
Estimated Program Cost (1996 $)		$193,300,000	$79,100,000	
CAROLINA BAYS PARKWAY				
S.C. 9 to Conway Bypass (6-lane fill and bridges, paving 4 lanes, approximately 7.8 miles)	RIDE/ STATE OF S.C.	$55,900,000	$31,700,000	$24,200,000
Conway Bypass to Central Parkway Connector (6-lane fill and bridges, paving 4 lanes, approximately 6.2 miles)	RIDE/ DEVELOPERS	$47,300,000	$25,800,000	$21,500,000
Central Parkway Connector (approximately 1.8 miles)	RIDE/ STATE OF S.C.	$38,600,000	$38,600,000	
Central Parkway Connector to Perry Road (6-lane fill and bridges, paving 4 lanes, approximately 0.8 miles)	RIDE/I.P	$6,700,000		$6,700,000
Estimated Program Cost (1996 $)		$148,500,000	$96,100,000	$52,400,000

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Table 1
RECOMMENDED SHORT TERM IMPROVEMENTS

PROJECTS	RESPONSIBLE PARTY	*PRELIMINARY* PROJECT COST (1996 $)	METHOD OF PAYMENT	
			$330,000,000 BOND ISSUE	HORRY COUNTY RESIDUAL CASH FLOW*
CENTRAL PARKWAY				
48th Avenue North to 29th Avenue North	RIDE/ STATE OF S.C.	$10,400,000	$10,400,000	
21st Avenue North to 10th Avenue North	RIDE/ STATE OF S.C.	$5,200,000	$5,200,000	
10th Avenue North to U.S. 501	RIDE/ STATE OF S.C.	$6,000,000	$6,000,000	
U.S. 501 to Harrelson Boulevard (S-600)	RIDE/ STATE OF S.C.	$6,600,000	$6,600,000	
Estimated Program Cost (1996 $)		$28,200,000	$28,200,000	
Fantasy Harbour Bridge Interchange (with U.S. 17)	STATE OF S.C./ RIDE	$12,000,000	$12,000,000	
City of Conway Perimeter Road (U.S. 501 to U.S. 378, approximately 0.8 miles with interchanges at U.S. 501/ S-165 and U.S. 378)	STATE OF S.C./ RIDE	$13,000,000	$13,000,000	
U.S. 17/U.S. 501 Interchange (complete)	STATE OF S.C./ RIDE	$12,300,000	$12,300,000	
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)	RIDE/ STATE OF S.C.	$7,500,000	$7,500,000	
S.C. 544 (5-lane section between U.S. 17 and Socastee Bridge)	GSATS (accelerated)	$7,100,000	$7,100,000	
S.C. 544 (5-lane section between Socastee Bridge and U.S. 501)	RIDE/ STATE OF S.C.	$52,000,000	$3,600,000	$48,400,000
S.C. 90 (intersection improvements between Conway Bypass and S.C. 9)	RIDE/ STATE OF S.C.	$4,500,000	$4,500,000	
S-31/S-66 (intersection improvements)	RIDE/ STATE OF S.C.	$7,200,000	$7,200,000	

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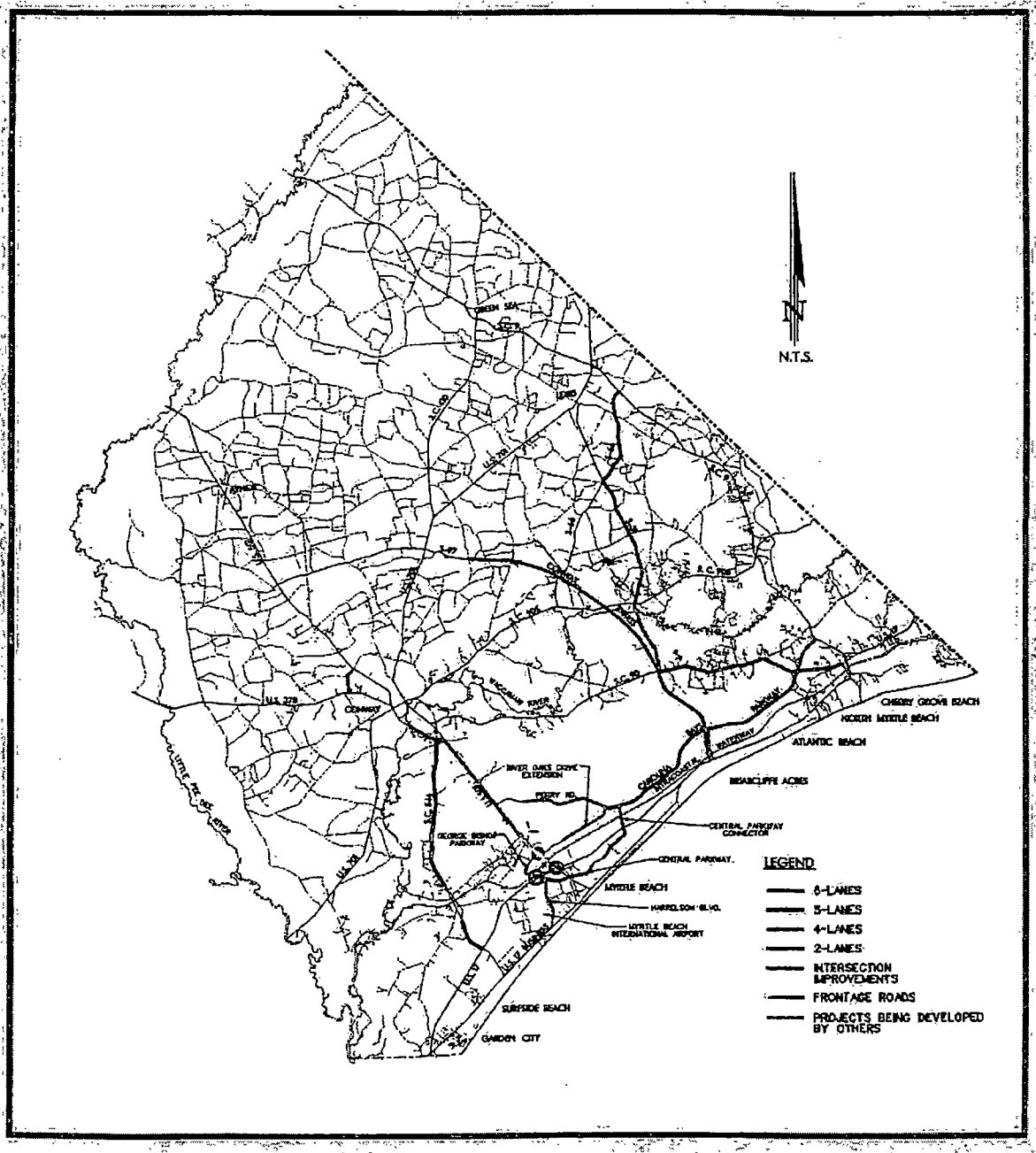
Table 1
RECOMMENDED SHORT TERM IMPROVEMENTS

PROJECTS	RESPONSIBLE PARTY	*PRELIMINARY* PROJECT COST (1996 $)	METHOD OF PAYMENT	
			$330,000,000 BOND ISSUE	HORRY COUNTY RESIDUAL CASH FLOW*
Implementation of *Proposal for the Development of the Grand Strand Area Congestion Management Program*	RIDE/ STATE OF S.C.	$4,500,000	$4,500,000	
U.S. 501 (frontage road system, Atlantic Intracoastal Waterway bridge to Forestbrook Road including the interchange at Forestbrook Road)	RIDE/ STATE OF S.C.	$40,800,000	$40,800,000	
U.S. 501/Perry Road Interchange	RIDE/ STATE OF S.C.	$10,000,000	$10,000,000	
U.S. 501 (acceleration/deceleration lanes, eliminating median breaks where they are not needed)	RIDE/ STATE OF S.C.	$4,000,000	$4,000,000	
SUBTOTAL	RIDE/ STATE OF S.C.	$416,900,000	$322,800,000	$94,100,000
SUBTOTAL ("Advance Construction")	STATE OF S.C./ RIDE	$114,200,000		
SUBTOTAL (Accelerated)	GSATS	$7,100,000	$7,100,000	
SUBTOTAL	RIDE/ DEVELOPERS	$6,700,000		$6,700,000
GRAND TOTAL		$544,900,000		
STATE OF S.C./RIDE et al		$423,600,000	$329,900,000	$100,800,000

NOTE: * Horry County Residual Cash Flow, refer to Tables 4 and 5 in Section 4, column labeled "Future Project Debt Service Available."

Recommended Short Term Improvements



Ride

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- **Conway Perimeter Road** - construct a bypass of Conway on the south side from U.S. 501 between S-165 and U.S. 378, thereby giving motorists an option to either traverse Conway on U.S. 501 or turn off on S-165 and use U.S. 378 to avoid the congestion through Conway, particularly in the vicinity of the intersection of 16th Avenue and U.S. 501.
- **Metropolitan Loop** - connect the projects that are currently planned or underway. These projects are the Fantasy Harbour bridge, River Oaks Drive Extension, and Central Parkway between 38th Avenue North and U.S. 501. The completion of the Loop would require the construction of the rest of Central Parkway between U.S. 501 and the Fantasy Harbour bridge, and between 38th Avenue North and the Central Parkway Connector of the Carolina Bays Parkway, all four lanes. In addition, construction of an interchange at the intersection of the Fantasy Harbour bridge, U.S. 17, Central Parkway, and Harrelson Boulevard, as well as an overpass at the intersection of U.S. 501 and George Bishop Parkway, would be required.
- **U.S. 501** - construct the frontage road system between the Atlantic Intracoastal Waterway and Forestbrook Road, as well as the interchange at Forestbrook Road. Also, construct an interchange at Perry Road, install acceleration and deceleration lanes at median breaks (which may require the elimination of several of the existing median breaks) between Forestbrook Road and the Waccamaw River, and completion of the U.S. 17/U.S. 501 interchange.
- **Intersection Improvements** - perform intersection improvements on S.C. 90 (between the Conway Bypass interchange and S.C. 9), S-31 (between S.C. 90 and S-66), and S-66 (between S-31 and S.C. 9 in Loris).

Looking toward the Future

- Implementation of all or portions of the *Proposal for the Development of the Grand Strand Area Congestion Management Program* (SCDOT Traffic Engineering, June 1996), including implementation of the SHEP Program in the GSATS area.

In addition to the implementation of the projects outlined in Table 1 and the Recommended Short Term Improvements illustration, the RIDE Committee requests:

1. Passage of enabling legislation to create the Infrastructure Bank, so that the South Carolina Department of Transportation can receive federal funding identified in the recent federal legislation. The SCDOT is one of the ten pilot states identified and this would provide *"seed money"* for road projects statewide.
2. Amendment of the enabling legislation passed during the 1995 session of the South Carolina General Assembly relating to funding of highway projects through the implementation of a local option sales tax or tolls. The elimination of the referendum requirement for tolling if the project costs exceed $150 million would allow necessary projects to proceed at a faster pace and lower cost.

3. Clarification and amendment of ***ALL*** legislation regarding tolling to allow greater flexibility and innovation. Currently, tolls from Project A cannot be used to construct Project B, even though they may be connected. This and other restrictions, need to be addressed.

4. Assignment of additional troopers and an additional District Supervisor (Lieutenant) to Horry County on a permanent basis. This will assist with the prevention of accidents, thus improving the public safety and welfare and providing increased mobility under existing conditions. As a side note, we wish to thank the South Carolina Department of Public Safety for increasing the number of troopers assigned to Horry County during the 1996 summer season. Their presence and assistance were greatly appreciated.

5. Coordination with the U.S. Fish and Wildlife Service to ensure that ***ALL*** wildlife refuge proposals do not hinder the implementation of long term highway requirements in Horry County, including the GSATS Long Range Transportation Plan.

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Section 3.0
LONG TERM RECOMMENDATIONS

Where do we go from here?

WHERE WE ARE NOW

The historic solution to transportation needs of Horry County has been crisis-oriented with piecemeal planning and construction being performed in an uncoordinated manner. Planning for the future should integrate the multimodal approach (road, bicycle, pedestrian, and transit) proposed by GSATS. This integration should involve principal participants at all levels (federal, state, regional, and local). The RIDE Committee, therefore, recommends that a strategic planning approach utilizing the GSATS Long Range Plan be applied under the leadership of the *"group"* chosen to implement the short term recommendations, as outlined in Section 5.

Path to the Future

THE FUTURE

Applying the strategic planning approach to Horry County should involve not only innovative thinking regarding needs for the next 20 to 30 years but also consider community goals and values. The future could be implemented in degrees, in order for it to be workable, and should focus on all aspects (social, technical, environmental, and economic) but with a *"vision"* to a comprehensive transportation network. The argument for a specific *"group"* to play a fundamental role in no way excuses the responsibilities of federal, state, or local governments, but would produce a mechanism that would eliminate the long, tedious process of multi-phased assessment, review, and approval. This *"group"* could be given the authority to certify projects in a one-step process and thereby reduce the involvement of federal, state, or local governments.

In order to meet the challenge of integration, all boundaries (technical and political) must be eliminated to create the act of *"achieving"* not just planning.

DETAILING THE PLAN

The RIDE Committee recognizes and applauds the extensive work that has been performed by others before them, and desires to advance these efforts by developing a management plan which would address regulatory, financial, and operational needs for a successful transportation plan. This transportation plan should involve the detailed study that was prepared and approved by the Grand Strand Area Transportation Study in March 1996 (Appendix B). Additionally, the RIDE Committee has added several projects

"Change unfair federal formulas for federal funding ... stop government from using dollars raised in South Carolina elsewhere."
— U.S. Senator Strom Thurmond

that are not considered in the GSATS Long Range Plan, most of which are outside the GSATS Study Area, but in Horry County. The list of improvements that are offered for consideration is outlined in Table 2 and illustrated on the figure titled Recommended Long Term Improvements.

In addition to the consideration of the projects outlined in Table 2 and Recommended Long Term Improvements illustration, the RIDE Committee requests that the State find solutions to keep South Carolina from being a donor state and increase the funding for the SCDOT. Additionally, the State needs to address the total funding requirements for road construction and maintenance. Current funding mechanisms are inadequate and the formulas used need to be reviewed and overhauled.

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Long Term Projects

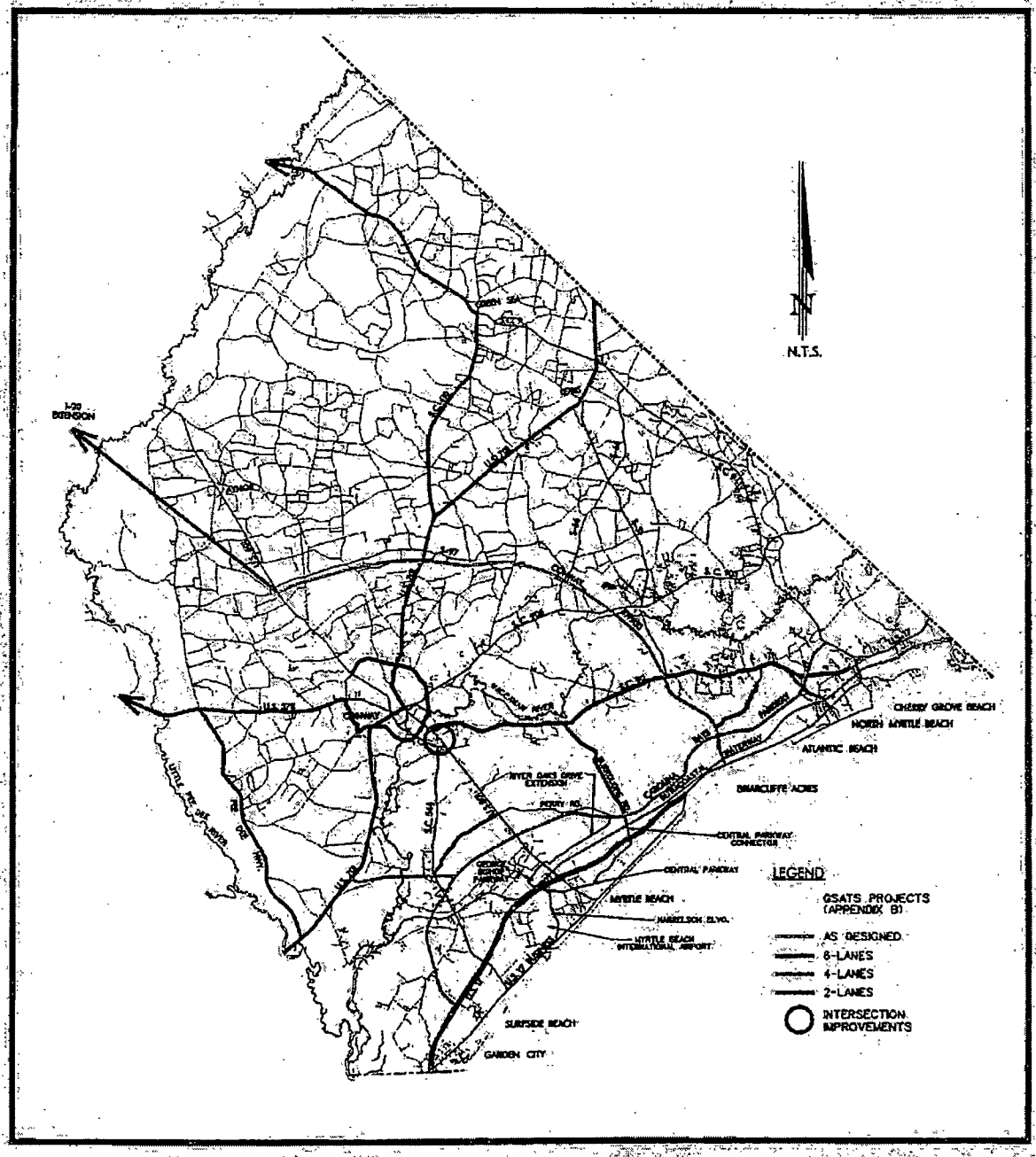
Table 2

RECOMMENDED LONG TERM IMPROVEMENTS

- GSATS Long Range Plan (as approved March 1995, Appendix B)
- Conway Bypass (as designed, 6 lanes between U.S. 17 and S.C. 905 and 4 lanes between S.C. 905 and U.S. 501)
- Carolina Bays Parkway (as designed, 6 lanes from S.C. 9 to U.S. 17, including a 4 lane crossing of the Atlantic Intracoastal Waterway in North Myrtle Beach)
- Fire/Water Tower Road (2-lanes between Conway Bypass and S-1029 [paved section])
- Burroughs Road (2-lanes between Carolina Bays Parkway and S.C. 90, approximately 8.4 miles)
- Perry Road (4-lanes between U.S. 501 and S.C. 544)
- U.S. 501 (6-lanes with frontage roads between Forestbrook Road and Conway)
- Ocean Boulevard in Atlantic Beach
- S.C. 9 (4-lanes between Green Sea and Horry County line)
- Big Block Road through the MBAFB to Ocean Boulevard
- U.S. 17 (6-lanes between Inlet Square Mall and U.S. 17/U.S. 17 Business interchange)
- U.S. 701 (4-lanes from Conway to Loris)
- S.C. 410 (4-lanes from U.S. 701 to S.C. 9)
- Loris to Tabor City Connector
- U.S. 701 (4-lanes, Conway to Georgetown)
- Conway Perimeter Road (complete the bypass around Conway)
- Pee Dee Road (4-lanes between U.S. 701 and U.S. 378)
- Florence to Conway Connector (I-20 extension)
- U.S. 378 (4-lanes, Conway to Horry County line)
- S.C. 90 (4-lanes between Conway and S.C. 9/U.S. 17 interchange)
- U.S. 501/S.C. 544/S.C. 90 interchange
- Community Bus System (shared bus system with hotels/motels)

NOTE: Should the proposed funding scenario for the short term recommendations have a surplus, it is the recommendation of the RIDE Committee that projects from this list be implemented as short term projects.

Recommended Long Term Improvements



Ride

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Section 2.0
SHORT TERM RECOMMENDATIONS

"If we first know where we are, and whither we are tending, we could then better judge what to do and how to do it."
— Abraham Lincoln

THE CRISIS

Horry County and the Grand Strand have become the second most popular resort area on the East Coast. The region, under the guidance of the Grand Strand Area Transportation Study (GSATS), is looking for a *"vision"* that provides accessibility to the Grand Strand, as well as internal mobility. Based on the *"vision,"* the current transportation system will not accommodate future traffic demands and therefore a solution was developed in the form of the GSATS Long Range Plan (approved but not funded March 1996, Appendix B).

WHAT IT WILL COST

Realizing that it is futile to depend exclusively on highway expansion, the region is considering a multimodal approach that will provide a balanced system. The system will include appropriate transit, bicycle, and pedestrian systems, as well as highways. This plan, however, has an estimated cost of $2.4 billion for: highway $1.74 billion, transit $0.67 billion, and other $0.01 billion, with a long list of funding options that would require participation from federal, state, and local sources.

Although the RIDE Committee recognizes the appropriateness of this plan, we have chosen to focus on a short term solution which in turn would lead to the implementation of the GSATS Long Range Plan.

"If we can't meet our infrastructure needs, we can't [expand] the private sector."
— Honorable David M. Beasley

THE NEXT STEP

Confronted with the magnitude and complexity of the transportation needs, the RIDE Committee initiated their program by receiving input from entities involved in transportation issues in Horry County. These entities included both the public and private sectors. Based on the data received and from the information presented by local citizens at the public meetings, the Committee defined two improvement options: (1) short term improvements that could be implemented between 1996 and 2005 which would provide traffic congestion relief; and (2) long term improvements that could be implemented and completed between 2005 and 2025.

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Table 3
10-, 15-, AND 20-YEAR PROJECTED REVENUE STREAM

FISCAL YEAR (7/1-6/30)	1.5-PERCENT HOSPITALITY FEE*				TOTAL INFLOW	TOTAL REVENUES
			HORRY COUNTY			
	Myrtle Beach	North Myrtle Beach	Additional Incorporated Areas	Unincorporated Areas		
96/97	$8,579,404	$2,211,933	$481,708	$3,403,325	$14,676,370	
97/98	$9,094,168	$2,344,649	$510,610	$3,607,525	$15,556,952	
98/99	$9,639,818	$2,485,328	$541,247	$3,823,976	$16,490,369	
99/00	$10,218,207	$2,634,448	$573,722	$4,053,415	$17,479,791	
00/01	$10,831,300	$2,792,514	$608,145	$4,296,619	$18,528,579	
01/02	$11,481,178	$2,960,065	$644,634	$4,554,417	$19,640,294	
02/03	$12,170,049	$3,137,669	$683,312	$4,827,682	$20,818,711	
03/04	$12,900,251	$3,325,929	$724,311	$5,117,342	$22,067,834	
04/05	$13,674,267	$3,525,485	$767,769	$5,424,383	$23,391,904	
05/06	$14,494,723	$3,737,014	$813,836	$5,749,846	$24,795,418	← $193,446,223
06/07	$15,364,406	$3,961,235	$862,666	$6,094,837	$26,283,143	
07/08	$16,286,270	$4,198,909	$914,426	$6,460,527	$27,860,132	
08/09	$17,263,446	$4,450,844	$969,291	$6,848,159	$29,531,740	
09/10	$18,299,253	$4,717,894	$1,027,449	$7,259,048	$31,303,644	
10/11	$19,397,208	$5,000,968	$1,089,096	$7,694,591	$33,181,863	← $341,606,746
11/12	$20,561,041	$5,301,026	$1,154,441	$8,156,266	$35,172,775	
12/13	$21,794,703	$5,619,088	$1,223,708	$8,645,642	$37,283,141	
13/14	$23,102,386	$5,956,233	$1,297,130	$9,164,381	$39,520,130	
14/15	$24,488,529	$6,313,607	$1,374,958	$9,714,244	$41,891,338	
15/16	$25,957,840	$6,692,423	$1,457,455	$10,297,098	$44,404,818	← $539,878,947

NOTE: * Assumes a 6-percent rate of annual growth.

SOURCE: Coastal Carolina University, E. Craig Wall Sr. School of Business Administration and Computer Science, June 6, 1996.

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PROPOSED PROJECT SCHEDULE FOR SHORT TERM RECOMMENDATIONS

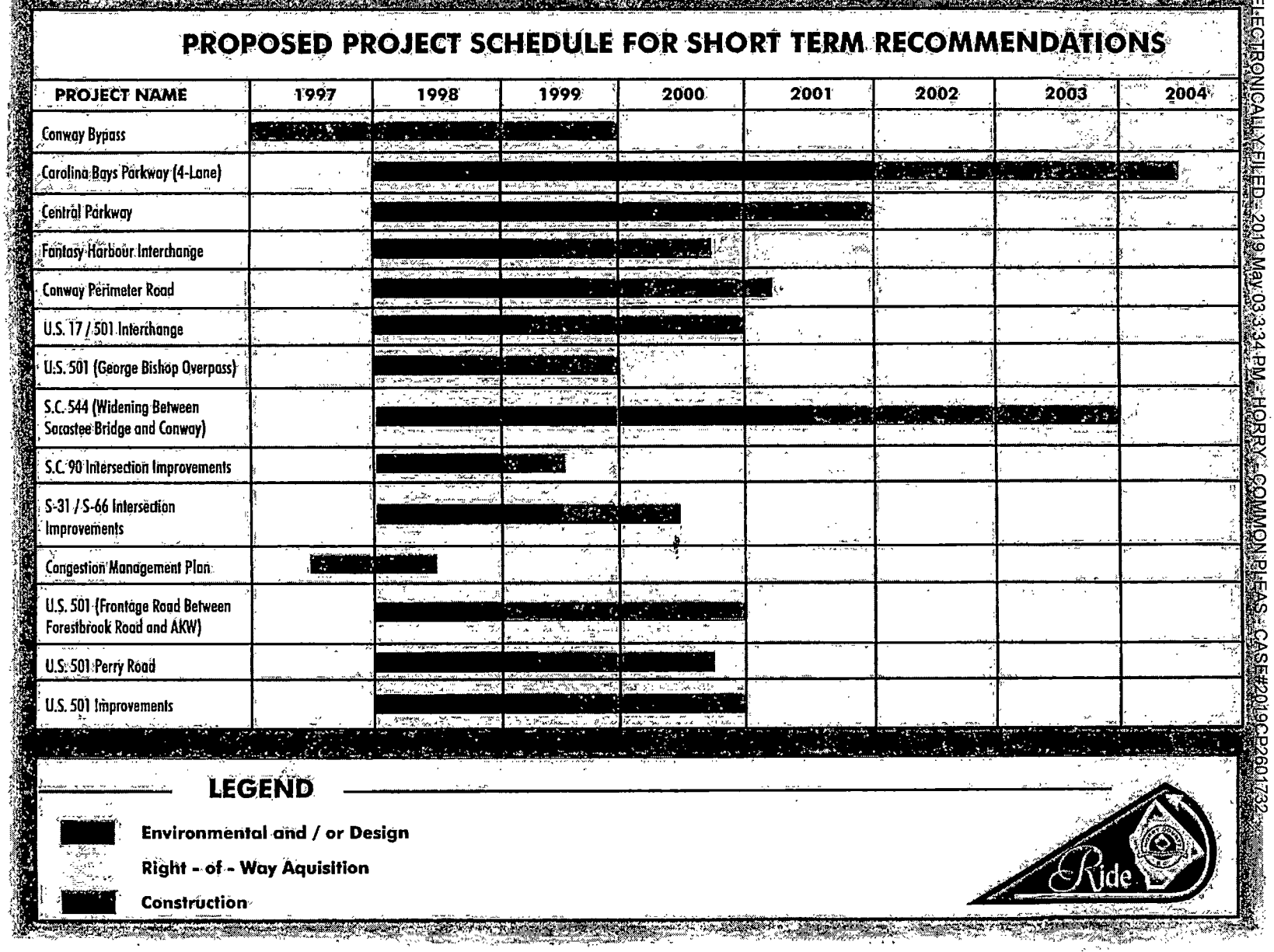

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Table 4
PROJECTED DEBT SERVICE - 15-YEAR SCENARIO

FISCAL YEAR (7/1-6/30)	1.5-PERCENT HOSPITALITY FEE* TOTAL COUNTY REVENUES	FUTURE PROJECT DEBT SERVICE AVAILABLE	CURRENT DEBT SERVICE AVAILABLE	ESTIMATED DEBT SERVICE ON $330,000,000 LOAN (6.5% FOR 15 YEARS)	CURRENT DEBT SERVICE SHORTFALL (*STATE CONTRIBUTION*)
96/97	$14,676,370	$0	$14,676,370	$35,096,418	($20,420,048)
97/98	$15,556,952	$1,414,268	$14,142,684	$35,096,418	($20,953,734)
98/99	$16,490,369	$2,851,965	$13,638,404	$35,096,418	($21,458,014)
99/00	$17,479,791	$4,346,965	$13,132,826	$35,096,418	($21,963,592)
00/01	$18,528,579	$5,873,310	$12,655,269	$35,096,418	($22,441,149)
01/02	$19,640,294	$7,445,217	$12,195,077	$35,096,418	($22,901,341)
02/03	$20,818,711	$9,067,091	$11,751,620	$35,096,418	($23,344,798)
03/04	$22,067,834	$10,743,546	$11,324,288	$35,096,418	($23,772,130)
04/05	$23,391,904	$12,479,408	$10,912,496	$35,096,418	($24,183,922)
05/06	$24,795,418	$14,279,740	$10,515,678	$35,096,418	($24,580,740)
06/07	$26,283,143	$16,149,853	$10,133,290	$35,096,418	($24,963,128)
07/08	$27,860,132	$18,095,326	$9,764,806	$35,096,418	($25,331,612)
08/09	$29,531,740	$20,122,018	$9,409,722	$35,096,418	($25,686,696)
09/10	$31,303,644	$22,236,093	$9,067,551	$35,096,418	($26,028,867)
10/11	$33,181,863	$24,444,041	$8,737,822	$35,096,418	($26,358,596)
TOTAL	$341,606,746	$169,548,843	$172,057,903	$526,446,270	($354,388,367)
PRESENT VALUE (1996 $) AT 6.5%		$87,553,940			

NOTES: * Assumes a 6-percent rate of annual growth.
Assumes that four lanes of the Carolina Bays Parkway will be constructed between S.C. 9 and Perry Road, as well as the Central Parkway Connector, and S.C. 544 will be widened to five lanes between the Socastee bridge and Conway, using the $330 million bond issue and monies available under the "Future Project Debt Service Available."

SOURCE: Coastal Carolina University, E. Craig Wall Sr. School of Business Administration and Computer Science, June 6, 1996.
South Carolina Department of Transportation, August 28, 1996.

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Table 5
PROJECTED DEBT SERVICE - 20-YEAR SCENARIO

FISCAL YEAR (7/1-6/30)	1.5-PERCENT HOSPITALITY FEE* TOTAL COUNTY REVENUES	FUTURE PROJECT DEBT SERVICE AVAILABLE	CURRENT DEBT SERVICE AVAILABLE	ESTIMATED DEBT SERVICE ON $330,000,000 LOAN (6.5% FOR 20 YEARS)	CURRENT DEBT SERVICE SHORTFALL (*STATE CONTRIBUTION*)
96/97	$14,676,370	$0	$14,676,370	$29,949,610	($15,273,240)
97/98	$15,556,952	$1,414,268	$14,142,684	$29,949,610	($15,806,926)
98/99	$16,490,369	$2,851,965	$13,638,404	$29,949,610	($16,311,206)
99/00	$17,479,791	$4,346,965	$13,132,826	$29,949,610	($16,816,784)
00/01	$18,528,579	$5,873,310	$12,655,269	$29,949,610	($17,294,341)
01/02	$19,640,294	$7,445,217	$12,195,077	$29,949,610	($17,754,533)
02/03	$20,818,711	$9,067,091	$11,751,620	$29,949,610	($18,197,990)
03/04	$22,067,834	$10,743,546	$11,324,288	$29,949,610	($18,625,322)
04/05	$23,391,904	$12,479,408	$10,912,496	$29,949,610	($19,037,114)
05/06	$24,795,418	$14,279,740	$10,515,678	$29,949,610	($19,433,932)
06/07	$26,283,143	$16,149,853	$10,133,290	$29,949,610	($19,816,320)
07/08	$27,860,132	$18,095,326	$9,764,806	$29,949,610	($20,184,804)
08/09	$29,531,740	$20,122,018	$9,409,722	$29,949,610	($20,539,888)
09/10	$31,303,644	$22,236,093	$9,067,551	$29,949,610	($20,882,059)
10/11	$33,181,863	$24,444,041	$8,737,822	$29,949,610	($21,211,788)
11/12	$35,172,775	$26,752,692	$8,420,083	$29,949,610	($21,529,527)
12/13	$37,283,141	$29,169,243	$8,113,898	$29,949,610	($21,835,712)
13/14	$39,520,130	$31,701,283	$7,818,847	$29,949,610	($22,130,763)
14/15	$41,891,338	$34,356,813	$7,534,525	$29,949,610	($22,415,085)
15/16	$44,404,818	$37,144,245	$7,260,573	$29,949,610	($22,689,037)
TOTAL	$539,878,947	$328,673,118	$211,205,829	$598,992,200	($387,786,371)
PRESENT VALUE (1996 $) AT 6.5%		$138,450,681			

NOTES: * Assumes a 6-percent rate of annual growth.
Assumes that four lanes of the Carolina Bays Parkway will be constructed between S.C. 9 and Perry Road, as well as the Central Parkway Connector, and S.C. 544 will be widened to five lanes between the Socastee bridge and Conway, using the $330 million bond issue and monies available under the "Future Project Debt Service Available."

SOURCE: Coastal Carolina University, E. Craig Wall Sr. School of Business Administration and Computer Science, June 6, 1996.
South Carolina Department of Transportation, August 28, 1996.

As work proceeds with the implementation of the short term recommendations, additional options for funding may evolve, such as:

- The reevaluation of Horry County's share of state dollars (it has long been a contention that Horry County's share of SCDOT dollars should be based on permanent population ***and*** tourists and not just permanent population);
- Implementation of a local gas fee for roads; and,
- Implementation of tolls.

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Section 5.0
IMPLEMENTATION RECOMMENDATIONS

"Team" Building toward Workable Solutions

The realization of the goals and work program discussed in Sections 2 and 3 will require a committed *"group"* of talented individuals who can stay focused on the goal of developing a workable transportation plan that benefits everyone, while keeping in perspective both public sentiment and political realities. To this end, the RIDE Committee offers the following recommendations:

1. A workable and achievable transportation plan that encompasses the projected needs (both short and long term) of Horry County for the next 20 to 30 years must be developed and adopted. This plan must be presented to and reviewed by Horry County and Municipal Councils, in order to achieve a mutual consensus of the program to be implemented. The most important factor is that the plan ***MUST*** be maintained to completion ***AS ADOPTED*** with only very minor modifications, if any at all.
2. An intergovernmental agreement between the State, SCDOT, Horry County, and municipal governments must be prepared. This agreement should outline the responsibilities of the State and SCDOT (issuance of the bonds, oversight responsibility for construction, and matching of funds to achieve each annual bond payment) and Horry County and municipal governments (annual, quarterly, or monthly payments to the State to retire the bonds issued for a period of 15 or 20 years).
3. A *"group"* to implement the Plan must be appointed. The RIDE Committee recommends that the *"group"* consist of seven members, two representatives chosen by Horry County, two chosen by the municipalities, two chosen by the SCDOT, and a chairman chosen by the Governor. The *"group,"* once formed, would have to be supported by a staff with a director responsible for overseeing the daily implementation and requirements of the plan and to coordinate with the State and SCDOT, and Federal Highway Administration, if necessary.
4. A SCDOT Fast Response Team must be created. This Fast Response Team would have the capability to expedite various planning, engineering, and environmental challenges to ensure that all projects stay on the fastest track possible. The team should consist of individuals who have the skills, expertise, and power of approval to *"cut through red tape and make things happen."* This team, in concert with the *"group,"* would be responsible for maintaining the schedule and the ultimate success of the adopted transportation plan.

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Section 6.0
CONCLUSION

This report provides a workable solution to the transportation issues facing Horry County that will enhance the quality of life of its residents, as well as ensure its continued prosperity in the future. It recommends a program that will produce a series of meaningful short term improvements that will assist in making the GSATS Long Range Transportation Plan a reality. It has a plan that will provide a revenue stream to fund short term improvements while working to find a funding solution for long term requirements. It develops also a mechanism that can be used throughout the State of South Carolina to accelerate the construction of other critical infrastructure needs.

The RIDE Committee has determined that the only way for Horry County to achieve an improved transportation network that benefits everyone is for citizens of Horry County and tourists visiting the Grand Strand to participate in the future success of tourism, one of the State's very important economic engines.

"Destiny is a matter of choice."
-- William Jennings Bryan

Therefore, in order to serve the citizens of Horry County correctly and completely, the RIDE Committee requests that the State, in partnership with Horry County, be willing to act on the recommendations outlined herein.

Respectfully Submitted

THE RIDE COMMITTEE

Gary M. Loftus (Chairman)

Frankie Blanton (Vice Chairman)

Edward Bouknight

Harry Charles

James Frazier

John Kost

Edward Rodelsperger

Suzette Rogers

Frank Thompson, II

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Appendix A

Public Meeting Summaries

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PUBLIC MEETING NUMBER 1

Location: Myrtle Beach Law Enforcement Center at 1101 Oak Street, Myrtle Beach.

Time: The public meeting was held on Monday, June 17, 1996, from 7:00 p.m. to 8:30 p.m.

Displays: Two displays were available for review, a map of Horry County and a map illustrating transportation projects that are proposed or currently underway in Horry County between the Waccamaw River and the coast.

Personnel: Actively participating in the public meeting were five members of the RIDE Committee (Mr. Gary M. Loftus [Chairman], Mr. Edward Bouknight, Mr. Harry Charles, Ms. Suzette Rogers, and Mr. Frank Thompson). Absent was Mr. Frankie Blanton (Vice Chairman), Mr. James Frazier, Mr. John Kost, and Mr. Edward Rodelsperger.

Process: The attendees were greeted as they entered and asked to sign in. The attendees were also asked if they wanted to address the Committee, as the purpose of the public meeting was to receive public comment prior to formulating the Report to the Governor.

Attendance: Approximately 41 people attended the meeting. Of this number 14 addressed the Committee.

Comments: Comments received included:

- ❑ Add left-turn lanes to existing four-lane roads.
- ❑ Add a third lane for turning to existing two-lane roads.
- ❑ Construct I-20 from Florence to Myrtle Beach.
- ❑ Impose development impact fees.
- ❑ Purchase the right-of-way for Carolina Bays Parkway.
- ❑ Increase the gas tax $0.05.
- ❑ Construct a bypass to the south of Conway and connect it to S.C. 544.
- ❑ Use the tax dollars currently sent to Columbia to pay for the local road improvements.
- ❑ Toll I-95.
- ❑ Improve S.C. 544, U.S. 521, and U.S. 501.
- ❑ Widen S.C. 9 to four lanes all the way to I-95.

- ❑ Build a bridge over the Waccamaw River to connect S.C. 544 with U.S. 701.
- ❑ Impose a two-percent hospitality tax east of Conway.
- ❑ Widen S.C. 319 (located north of U.S. 501) from Aynor to Conway, build a bridge over the Waccamaw River and connect it to the bridge over the Atlantic Intracoastal Waterway at Briarcliffe Acres.
- ❑ Tell Governor Beasley that Horry County should not be responsible for finding the money to build the roads.

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PUBLIC MEETING NUMBER 2

Location: North Myrtle Beach City Hall, Council Chambers at 1015 Second Avenue South, North Myrtle Beach.

Time: The public meeting was held on Monday, June 24, 1996, from 7:00 p.m. to 8:30 p.m.

Displays: Two displays were available for review, a map of Horry County and a map illustrating transportation projects that are proposed or currently underway in Horry County between the Waccamaw River and the coast.

Personnel: Actively participating in the public meeting were the nine members of the RIDE Committee (Mr. Gary M. Loftus [Chairman], Mr. Frankie Blanton [Vice Chairman], Mr. Edward Bouknight, Mr. Harry Charles, Mr. James Frazier, Mr. John Kost, Mr. Edward Rodelsperger, Ms. Suzette Rogers, and Mr. Frank Thompson).

Process: The attendees were greeted as they entered and asked to sign in. The attendees were also asked if they wanted to address the Committee, as the purpose of the public meeting was to receive public comment prior to formulating the Report to the Governor.

Attendance: Approximately 28 people attended the meeting. Of this number eight addressed the Committee.

Comments: Comments received included:

- ❑ Construct a small bypass of Conway instead of the Conway Bypass.
- ❑ Use Waccamaw Regional Planning and Development Council's expertise, because they are the transportation representatives for Horry County.
- ❑ Impose development impact fees.
- ❑ Improve signage for S.C. 9 in order to attract increased usage.
- ❑ Use accommodations taxes to improve roads instead of for advertising.
- ❑ Impose a business license fee.
- ❑ Construct clover-leaves at interchanges.

- ❑ Increase the sales tax $0.01.
- ❑ Widen U.S. 701 from S.C. 9 to the state line to take advantage of North Carolina's plans.
- ❑ Tell the Governor Horry County deserves their fair share.

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PUBLIC MEETING NUMBER 3

Location: Burroughs School Auditorium at 801 Main Street, Conway.

Time: The public meeting was held on Monday, July 1, 1996, from 7:00 p.m. to 8:45 p.m.

Displays: One display was available for review, a map of Horry County.

Personnel: Actively participating in the public meeting were seven members of the RIDE Committee (Mr. Gary M. Loftus [Chairman], Mr. Frankie Blanton [Vice Chairman], Mr. Edward Bouknight, Mr. Harry Charles, Mr. John Kost, Mr. Edward Rodelsperger, and Mr. Frank Thompson). Absent was Ms. Suzette Rogers and Mr. James Frazier.

Process: The attendees were greeted as they entered and asked to sign in. The attendees were also asked if they wanted to address the Committee, as the purpose of the public meeting was to receive public comment prior to formulating the Report to the Governor.

Attendance: Approximately 43 people attended the meeting. Of this number 15 addressed the Committee.

Comments: Comments received included

- ❑ Impose development impact fees.
- ❑ Increase the sales tax on vehicle sales.
- ❑ Learn from the mistakes made in Miami and Fort Lauderdale.
- ❑ Increase the gas tax $0.01.
- ❑ Impose a one-percent hospitality fee.
- ❑ Create a lottery and use the revenues to pay for infrastructure.
- ❑ Widen S.C. 9 to I-95.
- ❑ Widen U.S. 501.
- ❑ Impose tolls.
- ❑ Financing should come from everyone, federal, state, and local participation.
- ❑ Revenues for financing should be mixed, sales tax, hospitality fees, gas tax, tolls.

- ❑ Impose a development moratorium.
- ❑ Improve traffic flow through Conway.
- ❑ Computerize the traffic signals.
- ❑ Improve S.C. 544.

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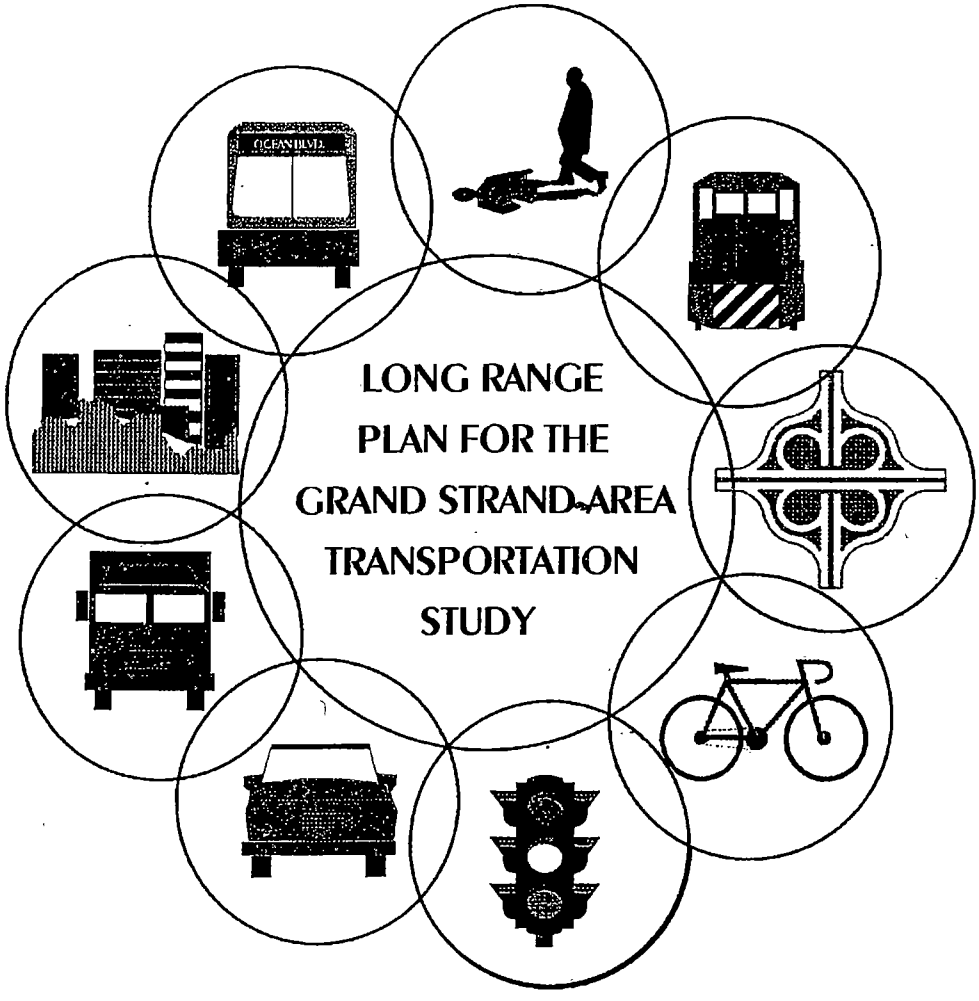
Appendix B

Long Range Plan for the Grand Strand Area Transportation Study Executive Summary

EXECUTIVE SUMMARY



Conducted for:
Waccamaw Regional Planning and Development Council

Prepared by:
Wilbur Smith Associates

March 1996

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Funding for this study was provided by the Federal Highway Administration, the South Carolina Department of Transportation, and the Waccamaw Regional Planning and Development Council.

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The last decade has seen the Grand Strand Area emerge as the second most popular resort destination on the East Coast. More and more people have found their way to the region. The upside is economic growth; the downside is traffic congestion.

The region is capitalizing on its popularity and is looking to continued growth and success in the decades to come. For this vision to be realized, there must be a realistic long range transportation plan that:

(1) **provides accessibility to the Grand Strand Area.** If the required roadway and transit capacities leading to the area are not in place, then there is no way for the vision to become reality; and

(2) **provides internal mobility through the area.** As more and more people flock to the beach, it will become impossible and impractical to accommodate all the short-distance travel demands by automobile. It is essential that an expanded highway, transit, pedestrian, and bicycle system be provided to encourage non-automobile travel within the area.

THE PRESENT AND FUTURE

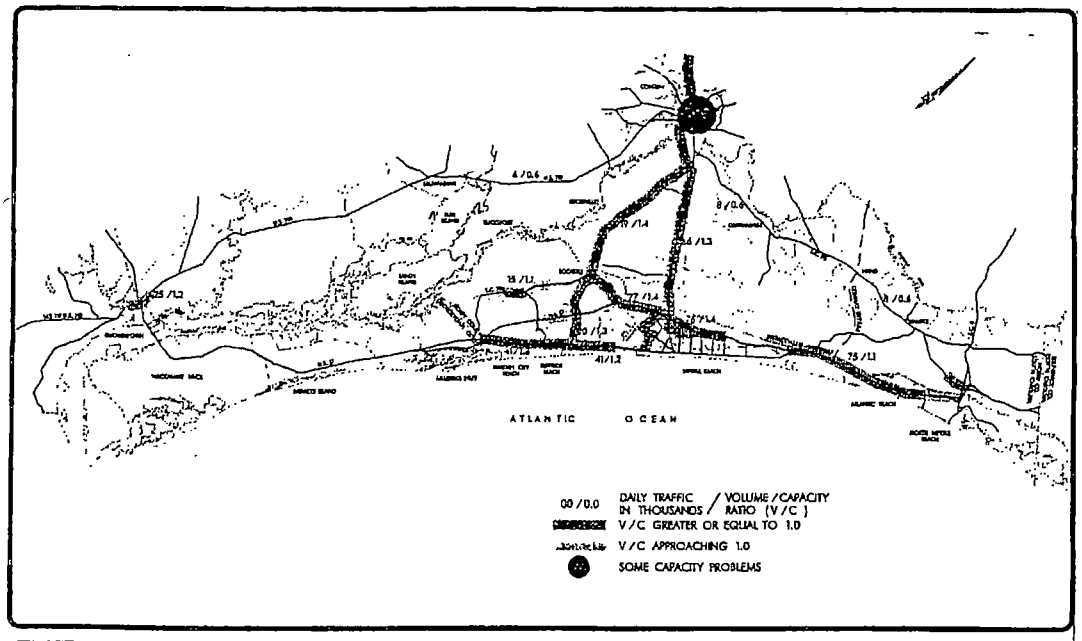
There is no way the region can accommodate anticipated future travel demands with the current transportation system. Presently, a typical summer day is characterized by long queues on major highways such as US 501, SC 544, and US 17 Business and Bypass. Along the oceanfront, pedestrians and vehicles compete for space on Ocean Boulevard and Kings Highway. These situations confirm the results of technical analyses that indicate the region's present highway system is operating just over capacity and cannot handle any significant increases in traffic without intolerable delays.

ROADWAY	1995 DAILY TRAFFIC	2015 DAILY TRAFFIC	PERCENT INCREASE
SC 544	19,000	30,000	58%
US 501	66,000	101,000	53%
US 17 Bypass	77,000	132,000	71%
US 17 BUSINESS	41,000	69,000	68%

A number of highway improvements have been proposed; some have reached the stage of being considered as committed projects, such as widening of US 17 Business in Murrells Inlet and US 17 in North Myrtle Beach as well as the Conway Bypass. Some projects have been studied in detail, such as Carolina Bays Parkway, as well as the widening of US 501 and SC 544.

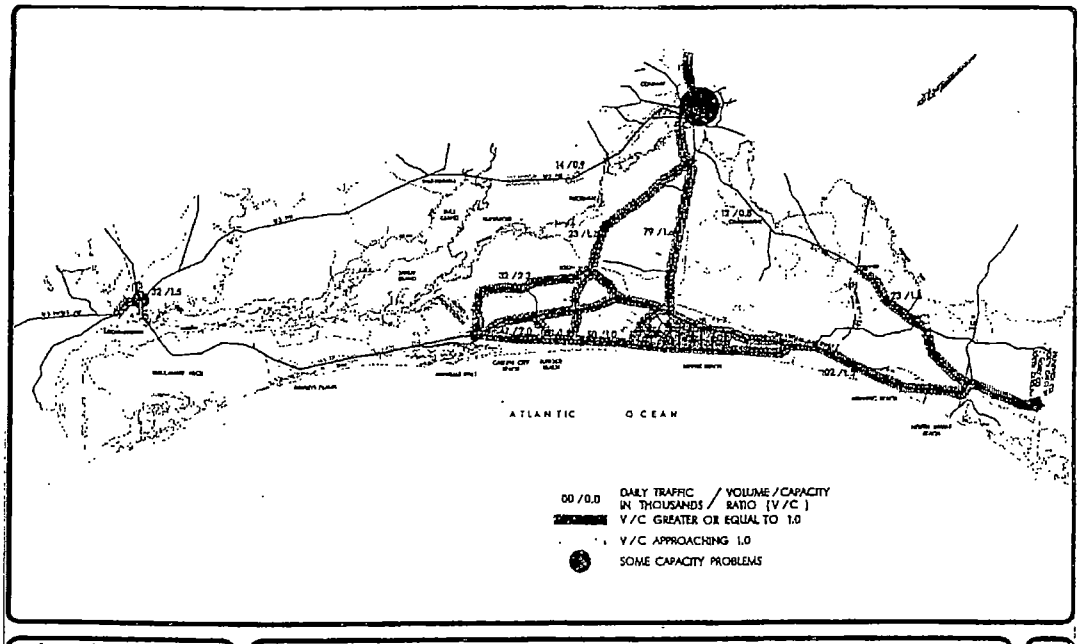
If the Year 2015 traffic projections become a reality, all these projects, and numerous other improvements, will be needed to keep traffic conditions from getting worse than they already are.

Some would argue that the construction of highway improvements encourages highway-dependent land development, which in turn encourages more traffic, perpetuating today's traffic problems.



EXISTING 1995 TRAFFIC CONDITIONS
GSATS Long Range Plan

FIGURE ES-1



ANTICIPATED 2015 EXISTING & COMMITTED TRAFFIC CONDITIONS
GSATS Long Range Plan

FIGURE ES-2

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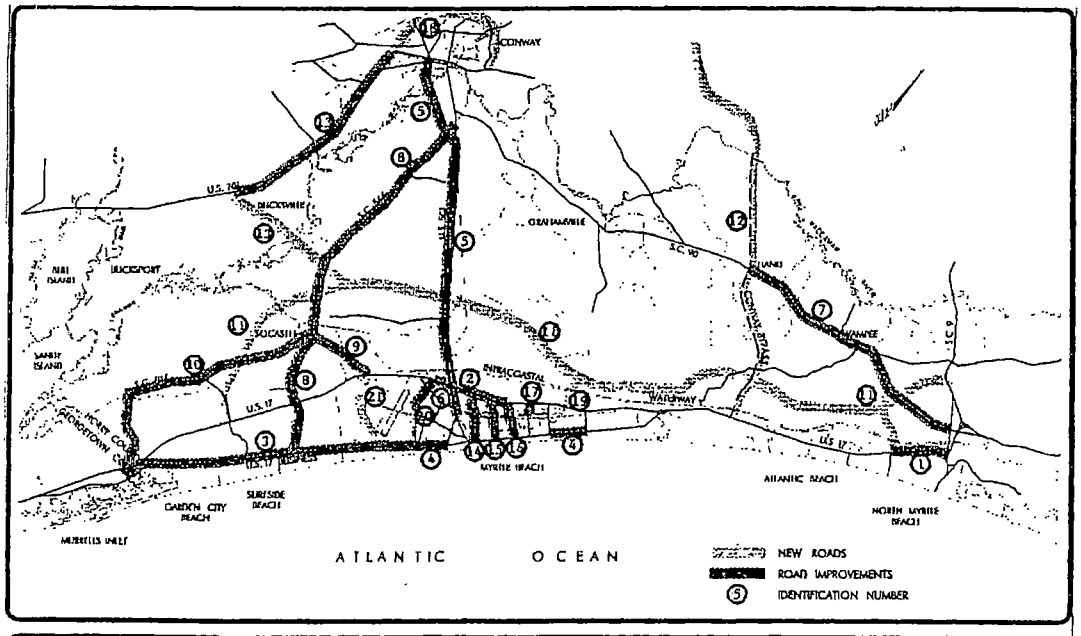
BALANCE IS THE ONLY REAL SOLUTION

Evidence of the futility of excessive dependence on highways is the amount of land required to accommodate the automobile. Not only road space is needed, but parking spaces as well. If status quo automobile dependent conditions continue into the future, and if the anticipated traffic growth materializes, it is estimated that approximately 2,500 acres of land would be needed to construct an estimated 240,000 parking spaces (assuming only surface lots are built). This land could obviously be put to better economic use.

Highway improvements totaling $1.7 billion (with contingency) are necessary to accommodate projected traffic growth and return traffic conditions to better than they are today. But these improvements would not address all of the region's transportation problems. It would be easier to get to the area, but not so easy to move around. Movements, especially on Ocean Boulevard and Kings Highway, would be hampered as pedestrians walk along or cross streets, and vehicles try to maneuver through the area. Sidewalks can be provided, but with wider roads and more parking needed, the resulting environment would not likely be pedestrian friendly.



MAJOR HIGHWAY PROJECTS CONSIDERED
GSATS Long Range Plan

FIGURE ES-3

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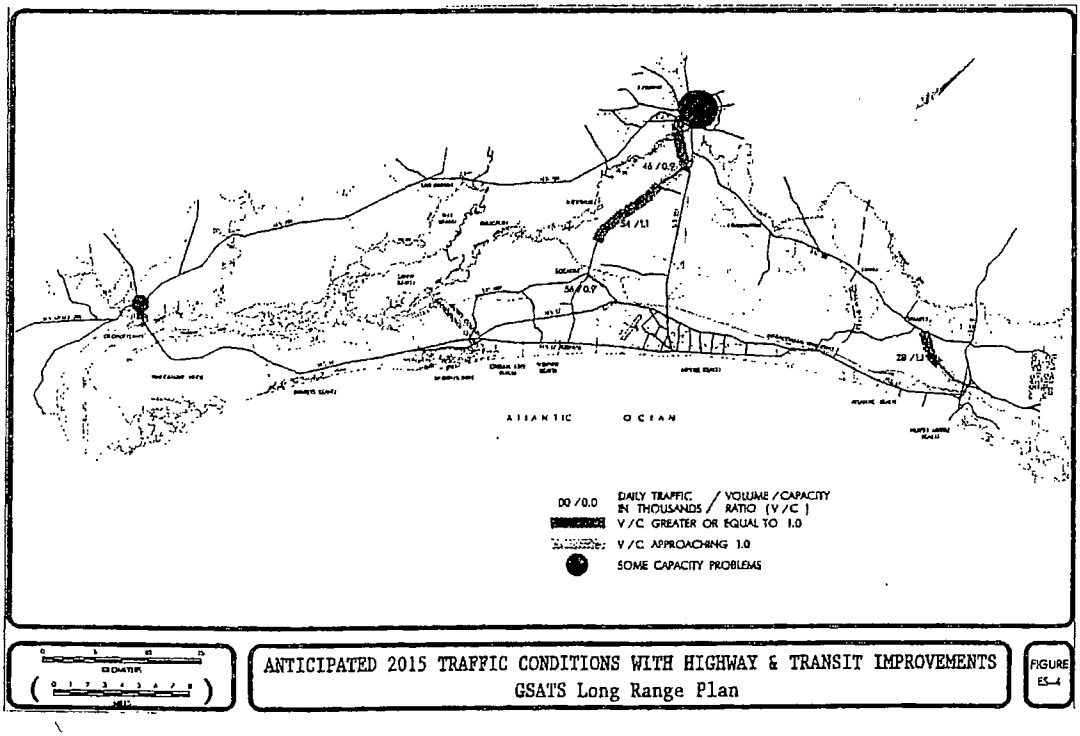
Another drawback to the "All Highway" approach is the lack of capacity to address post-Year 2015 growth. The proposed highway improvements will result in little reserve capacity to accommodate any additional growth beyond that anticipated by Year 2015. After most major roadways become six to eight lanes wide, there will be few opportunities to provide more road capacity. Therefore, the "All Highway" approach has limited potential to serve the region's post-Year 2015 growth.

PREFERRED PLAN

A multimodal approach that provides a balanced transportation system is the only sound basis for addressing the region's needs. The Preferred Plan is based on a series of highway improvements needed today or in the near future to alleviate congestion. These improvements must be augmented by an increased emphasis on alternate modes of transportation, such as transit, bicycles, and pedestrian improvements.

It is not possible to stop building roads and force people to use alternate modes -- in part because those alternate modes do not exist today, and in part because presently there is no overwhelming willingness to use those modes. Careful planning over time will allow the appropriate transit, bicycle, and pedestrian systems to evolve in concert with changes in land use which will be critical to the success of these alternate modes. To encourage more people to ride transit, transit services must be improved, and the convenience/cost of internal travel by automobile changed.



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Land Use Controls

Today, the Grand Strand Area is primarily served by low density development. Within the Myrtle Beach area, development is poised to jump over the Intracoastal Waterway and repeat the low density pattern. Such trends will compound demands for highway capacity and make viable transit service difficult to provide.

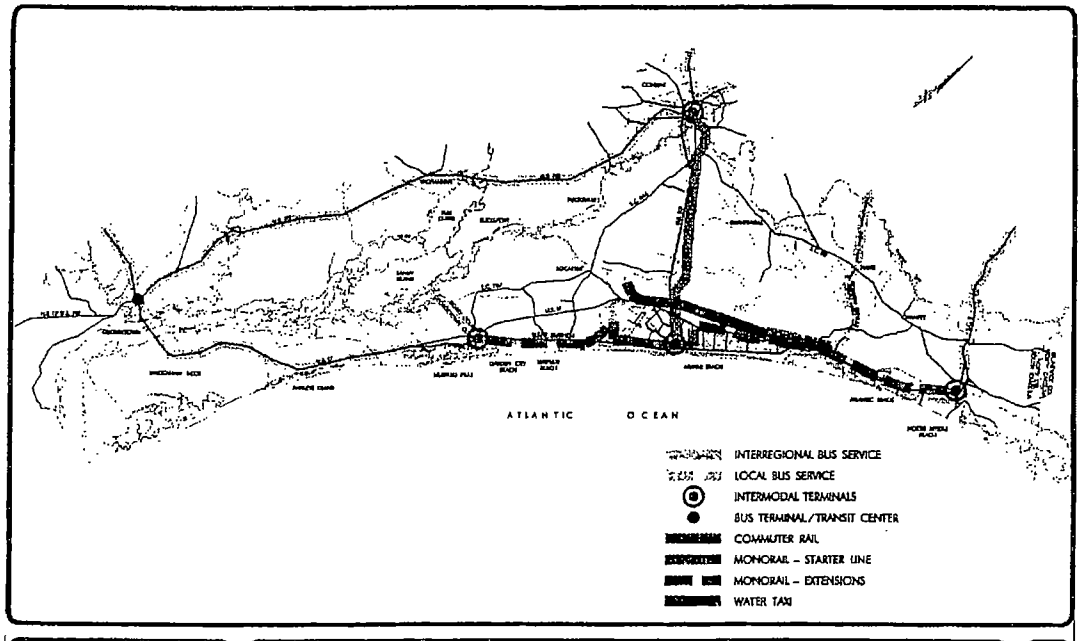
A combination of highway and transit improvements along the Grand Strand can encourage redevelopment of low density areas into major development clusters that encourage transit usage, and facilitate the use of bicycle and pedestrian travel.

Only by coordinating land use and transit improvements as part of a comprehensive long

ar: e plan will the Grand Strand be able to
ir :ment the transportation plan required to
ac: ommodate future economic growth. Without managed land use and a balanced transportation system, desired growth may never materialize.

Transit Plan

The Transit Element of the Preferred Plan is a comprehensive program of regional and local bus service, rail projects, plus introduction of water taxi and monorail service. The heart of the plan is a monorail system that would initially link the Air Force Base Redevelopment Area to the Visitors Center, and on to Broadway at the Beach. Later, the system would be extended to North Myrtle Beach and Murrells Inlet.



MASS TRANSIT CONCEPT
GSATS Long Range Plan

FIGURE ES-5

Supporting the Transit Element would be bicycle and pedestrian improvements that offer nonmotorized transportation alternatives. Pedestrian and bicycle improvements around transit stations and intermodal terminals will be important to the success of the transit system.

Highway Element

The adjacent table indicates the highway improvements that are required, in addition to the Transit Element and pedestrian/bicycle improvements, to maintain traffic conditions at acceptable standards. These improvements range from localized intersection or interchange improvements, to short segments of roadway widenings or new connecting highways, to major regional highway improvements such as the proposed Carolina Bays Parkway.

The improvements are prioritized by group and within each group. Priority Group 1 includes all projects contained in the existing Transportation Improvement Plan, plus projects oriented towards improving capacity on routes leading to the Grand Strand Area. Priority Group 2, as a rule, focuses on projects that typically carry lower traffic volumes or are more sub-regional in nature. Additionally, the first phase of the monorail and transit improvement projects are included in Priority Group 2. The final group, Priority Group 3, involves generally localized projects and the expansion of the monorail transit system.

Estimated Costs

The plan is estimated to cost approximately $2.4 billion, including an overall contingency factor of 15 percent. Estimates (including the contingency factor) for each major element include:

Highway	$1.74 billion
Transit	$0.67 billion
Other	$0.01 billion
Total	**$2.42 billion**

Funding Options

A long list of potential local funding options was explored with those having the best potential to generate the funds necessary to finance the plan being: a motor vehicle fuel tax, a county sales tax,, a local accommodations tax, impact fees, and an increase in the admissions tax. Although a combination of these taxes could produce most of the required funds, it is likely that State and Federal funding beyond what is already committed could be found to finance some improvements, and that user fees could sustain the Transit Element.

NEXT STEPS

The GSATS Region has come to a fork in the road. If a status quo approach is most desired by the region, then the All Highway approach costing $1.7 billion will do -- for now. If the region is willing to take slightly more risk and increase the cost of the plan by some $675 million, then the Preferred Plan will not only meet all anticipated travel demands to the Year 2015, but also have reserve capacity to serve the anticipated development beyond that planning horizon. The Preferred Plan appears to be more in tune with the area's goals and objectives.

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Table ES-1
PRIORITIZED PREFERRED PLAN ELEMENTS

PRIORITY GROUP	NO.	IMPROVEMENT	TYPE	ACTION	LOCATION	COST ($000)
1	1	CAROLINA BAYS PARKWAY	HIGHWAY	NEW FACILITY	SC 9 TO US17 (BYPASS) INC US701 CONNECTOR	$717,000
1	1	CONWAY BYPASS	HIGHWAY	NEW FACILITY	US501 TO US17, NORTH MB	$413,000
1	2	US501	HIGHWAY	WIDEN TO 4 LANE FRWY/4 LANE FRONTAGE RD	CONWAY TO FORESTBROOK RD	$31,431
1	2	US501	HIGHWAY	WIDEN TO 6 LANE FRWY/6 LANE FRONTAGE RD	FORESTBROOK RD TO US17 (BYPASS)	$32,789
1	2	US501	HIGHWAY	WIDEN TO 6 LANES	US17 (BYPASS) TO 3RD AVE S	$11,202
1	3	SC544	HIGHWAY	WIDEN TO 6 LANES	US17B TO US17 (BYPASS)	$6,075
1	3	SC544	HIGHWAY	WIDEN TO 6 LANES	US17 (BYPASS) TO SOCASTEE	$14,580
1	3	SC544	HIGHWAY	WIDEN TO 8 LANES	SOCASTEE TO CONWAY	$14,648
1	3	SC544	HIGHWAY	CONSTRUCT INTERCHANGE	SC707/SOCASTEE BLVD, SOCASTEE	$2,500
1	4	US501	HIGHWAY	INTERSECTION IMPROVEMENTS	16TH AVE, CONWAY	$500
1	5	3RD AVENUE S	HIGHWAY	ADD TWO WAY LEFT TURN LANE	US501 TO US17B, MB	$4,051
1	6	BELTLINE ROAD	HIGHWAY	NEW TWO LANE ROAD	SC905 TO US701, CONWAY	$7,050
1	7	10TH AVENUE N	HIGHWAY	WIDEN TO 7/6 LANES	US17 (BYPASS) TO CENTRAL PARKWAY, MB	$3,375
1	8	INLET SQUARE DRIVE	HIGHWAY	REALIGN-SMALL TIP PROJECT	ALIGN WITH MT GILEAD RD, GARDEN CITY	$400
1	9	SC90	HIGHWAY	REALIGN-SMALL TIP PROJECT	REALIGN AT ENT. TO CEDAR CREEK SUBDIV., NORTH M	$500
1	10	N OCEAN BOULEVARD	HIGHWAY	WIDEN	SEA MOUNTAIN HWY TO 53RD AVE N	$1,200
1	11	SC707	HIGHWAY	WIDEN TO 8 LANES	SC544 TO US17 (BYPASS), BACK GATE	$3,600
1	12	US17	HIGHWAY	WIDEN	S OF 8TH AVE N TO SC9, NORTH MB	$1,900
1	13	US17 BUSINESS	HIGHWAY	WIDEN	US17B TO S-62, MURRELLS INLET	$1,480
1	14	ATLANTIC AVENUE (S-51)	HIGHWAY	ADD TWO WAY LEFT TURN LANE	WACCAMAW DRIVE TO US17B, GARDEN CITY	$942
1		NORTH OCEAN BLVD	BIKEWAY	NEW FACILITY	MYRTLE BEACH	$190
1		OCEAN BOULEVARD	BIKEWAY	ADD BIKE AND PED PATH/BIKE LANE	SURFSIDE BEACH	$51
1		US17	BIKEWAY	NEW FACILITY	MYRTLE BEACH	$380
1		CRABTREE CANAL BIKEWAY	BIKEWAY	NEW FACILITY	CONWAY	$10
1		SANTEE COOPER BIKEWAY	BIKEWAY	NEW FACILITY	48TH AVE N TO 76TH AVE N	$342
1		SOUTH WACCAMAW DRIVE	SIDEWALK	CONSTRUCT SIDEWALKS	GARDEN CITY	$113
1		WACHESAW RD	SIDEWALK	CONSTRUCT SIDEWALKS	MURRELLS INLET	$18
1		16TH AVE N	SIDEWALK	ADD SIDEWALKS	MYRTLE BEACH	$21
1		62ND ST N	SIDEWALK	ADD SIDEWALKS	MYRTLE BEACH	$189
1		VARIOUS	SIDEWALK	ADD SIDEWALKS	MYRTLE BEACH	$2,500
1		VARIOUS	MISC	SIGNAL SYSTEMS	MYRTLE BEACH, N. MYRTLE BEACH, CONWAY	$1,160
1		VARIOUS	TRANSIT	PHASE 1 CAPITAL COSTS (w/ contingency)	REGIONAL	$61,625
					SUBTOTAL	$1,334,822
					CONTINGENCY @ 15% (exc transit)	$190,980
					TOTAL PRIORITY GROUP 1	$1,525,802

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Table ES-1 (cont)
PRIORITIZED PREFERRED PLAN ELEMENTS

PRIORITY GROUP	NO.	IMPROVEMENT	TYPE	ACTION	LOCATION	COST ($000)
2	1	US17 (BYPASS)	HIGHWAY	WIDEN TO 6/7 LANES	BACK GATE TO JETPORT ROAD TO US501 TO 29TH AVE N	$28,080
2	2	US17BUSINESS	HIGHWAY	WIDEN TO 6 LANES	N OF MURRELLS INLET TO JETPORT ROAD	$8,500
2	3	21ST AVE N	HIGHWAY	WIDEN TO 5/4 LANES	US17 TO US17B, MB	$4,750
2	4	US17BUSINESS	HIGHWAY	WIDEN TO 6 LANES	JETPORT TO 34TH AVE AND 48TH AVE N TO 62ND AVE N	$15,500
2	5	JETPORT ROAD	HIGHWAY	EXTEND	JETPORT TO US17B, MB	$2,000
2	5	JETPORT ROAD	HIGHWAY	WIDEN TO 4 LANES DIVIDED	US17 (BYPASS) TO JETPORT, MB	$1,214
2	6	SC707	HIGHWAY	WIDEN TO 8 LANES	CAROLINA BAYS PARKWAY TO SC544	$7,200
2	6	SC707	HIGHWAY	WIDEN TO 8 LANES	US17 (BYPASS), MURRELLS INLET TO CBP	$11,520
2	7	SC90	HIGHWAY	WIDEN TO 4 LANES	CAROLINA BAYS PARKWAY TO SC9	$960
2	7	SC90	HIGHWAY	WIDEN TO 4 LANES	CONWAY BYPASS TO CAROLINA BAYS PKWY NEAR SC9	$6,660
2	8	CENTRAL PARKWAY - NORTH	HIGHWAY	NEW DIVIDED ARTERIAL	52ND AVE N TO 38TH AVE N	$10,138
2	8	CENTRAL PARKWAY - SOUTH	HIGHWAY	NEW DIVIDED ARTERIAL	21ST AVE N TO US501	$9,462
2	9	US378	HIGHWAY	CORRIDOR IMPROVEMENTS	CONWAY	$500
2	10	US701	HIGHWAY	CORRIDOR IMPROVEMENTS	CONWAY	$500
2	11	US17	HIGHWAY	ADD RAISED MEDIAN	NORTH MYRTLE BEACH	$250
2	12	OLD SOCASTEE ROAD	HIGHWAY	WIDEN	US501 TO US17 (BYPASS)	$1,056
2	12	OLD SOCASTEE ROAD EXTENSION	HIGHWAY	EXTEND	S-635 TO BACK GATE RD	$285
2	13	US501/378 CONNECTOR	HIGHWAY	NEW FACILITY	CONWAY	$1,560
2	14	GLENN'S BAY RD	HIGHWAY	WIDEN/IMPROVE TO 3 LANES	US 17 (BYPASS) TO US17B	$3,400
2	15	S OCEAN BLVD	HIGHWAY	WIDEN TO 4 LANES	ATLANTIC BEACH TO 48TH AVENUE S, NORTH MB	$1,500
2	16	S OCEAN BLVD	HIGHWAY	WIDEN TO 4 LANES	17TH AVENUE S TO ATLANTIC BEACH, NORTH MB	$750
2		KINGS HIGHWAY	BIKEWAY	ADD BIKEWAYS	MYRTLE BEACH	$100
2		MONORAIL-PHASE 1	TRANSIT	FROM AIRBASE TO DOWNTOWN	MYRTLE BEACH	$151,100
					SUBTOTAL	$266,985
					CONTINGENCY @15% (exc transit)	$17,383
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Table ES-1 (cont)
PRIORITIZED PREFERRED PLAN ELEMENTS

PRIORITY GROUP	PRIORITY NO.	IMPROVEMENT	TYPE	ACTION	LOCATION	COST ($000)
3	1	29TH AVE N	HIGHWAY	WIDEN TO 5/4 LANES	US17 (BYPASS) TO US17B, MB	$2,850
3	2	38TH AVE N	HIGHWAY	WIDEN TO 4 LANES	US17 (BYPASS) TO CENTRAL PARKWAY, MB	$2,850
3	3	5TH AVE S	HIGHWAY	EXTEND 3 LANE ROAD THRU RACEPATH RD	S-600 TO BROADWAY, MB	$2,064
3	3	5TH AVE S	HIGHWAY	ADD TWO WAY LEFT TURN LANE	BROADWAY HWY TO US17B, MB	$1,601
3	4	GEORGETOWN BYPASS	HIGHWAY	NEW FACILITY	US701 TO US17, WEST OF TOWN	$6,724
3	5	GEORGETOWN NE-SW BOULEVARD	HIGHWAY	MAKE FRASIER AND HAZARD ONE-WAY PAIRS	GEORGETOWN	$1,500
3	6	GEORGETOWN NW-SE BOULEVARD	HIGHWAY	MAKE HIGHMARKET AND CHURCH ONE-WAY PAIRS	GEORGETOWN	$1,500
3	7	ELIZABETH STREET	HIGHWAY	EXTEND	16TH AVE TO WALMART CONN, CONWAY	$1,958
3	8	FORESTBROOK ROAD	HIGHWAY	WIDEN TO 4 LANES	US501 SOUTH	$6,585
3	9	MILL POND ROAD	HIGHWAY	EXTEND	US378 TO BEYOND US501, CONWAY	$1,500
3	10	SOUTH JETPORT PARKWAY	HIGHWAY	NEW FACILITY	MYRTLE BEACH	$11,880
3	11	LITTLE RIVER NECK ROAD	HIGHWAY	WIDEN	NORTH MB	$9,000
3	12	LITTLE RIVER NECK ROAD CONNECTOR	HIGHWAY	NEW FACILITY	BETWEEN LITTLE RIVER NECK AND US17	$9,200
3	13	CYPRESS AVE	HIGHWAY	ADD TWO WAY LEFT TURN LANE	WACCAMAW DRIVE TO US17B, GARDEN CITY	$942
3	14	S-111	HIGHWAY	WIDEN TO 4 LANES	S-50 TO SC57	$1,920
3	15	S-50	HIGHWAY	WIDEN TO 4 LANES	LITTLE RIVER TO S-111	$3,360
3	16	US501	HIGHWAY	CORRIDOR IMPROVEMENTS	CONWAY	$500
3	17	US501	HIGHWAY	INTERSECTION IMPROVEMENTS	9TH AVE, CONWAY	$500
3	18	US501	HIGHWAY	INTERSECTION IMPROVEMENTS	US378, CONWAY	$500
3	19	US501	HIGHWAY	CONSTRUCT INTERCHANGE	FORESTBROOK ROAD	$2,500
3	20	US501	HIGHWAY	CONSTRUCT INTERCHANGE	FUTURE INTERSECTION	$2,500
3	21	US501	HIGHWAY	CONSTRUCT INTERCHANGE	SINGLETON RIDGE ROAD	$2,500
3	22	US501	HIGHWAY	CONSTRUCT INTERCHANGE	SC544, CONWAY	$4,000
3	23	US501	HIGHWAY	CONSTRUCT INTERCHANGE	US17 (BYPASS)	$10,000
3	24	US501	HIGHWAY	CONSTRUCT INTERCHANGE	CENTRAL PARKWAY/S-600	$3,500
3	25	US501	HIGHWAY	CONSTRUCT INTERCHANGE	GEORGE BISHOP BOULEVARD	$3,500
3	26	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	SC707/SOUTH JETPORT PARKWAY, MB	$2,500
3	27	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	JETPORT ROAD, MB	$2,500
3	28	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	10TH AVE N, MB	$2,500
3	29	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	21ST AVE N, MB	$2,500
3	30	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	38TH AVE N, MB	$2,500
3	31	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	29TH AVE N, MB	$2,500
3	32	US17 (BYPASS)	HIGHWAY	CONSTRUCT INTERCHANGE	67TH AVE N, MB	$2,500
3	33	US17BUSINESS	HIGHWAY	CONSTRUCT INTERCHANGE	OCEAN BLVD/MAIN GATE, MB	$2,500
3	34	US17BUSINESS	HIGHWAY	CONSTRUCT INTERCHANGE	SC544, SOUTH STRAND	$2,500
3	35	US17BUSINESS	HIGHWAY	CONSTRUCT INTERCHANGE	21ST AVE N, MB	$4,000
3	36	US17BUSINESS	HIGHWAY	CONSTRUCT INTERCHANGE	SURFSIDE DRIVE, SOUTH STRAND	$2,500
3	37	OCEAN BOULEVARD	HIGHWAY	MAKE CONTINUOUS	32ND TO 33RD AVES S, ATLANTIC BEACH	$100
3	38	OCEAN BOULEVARD	HIGHWAY	MAKE CONTINUOUS	20TH TO 29TH AVES S, ATLANTIC BEACH	$200
3	39	MAIN STREET/US17	HIGHWAY	HIGHWAY INTERSECTION IMPROVEMENTS	NORTH MB	$30
3	40	48TH AVE S/US17	HIGHWAY	HIGHWAY INTERSECTION IMPROVEMENTS	NORTH MB	$30
3	41	HILL STREET/LITTLE RIVER NECK	HIGHWAY	HIGHWAY INTERSECTION IMPROVEMENTS	NORTH MB	$120
3	42	WALMART CONNECTOR	HIGHWAY	NEW FACILITY	US501 TO OAK STREET EXT, CONWAY	$2,500
3	43	NORTH STREET	HIGHWAY	WIDEN TO 5 LANES/EXTEND	US701 TO US521, GEORGETOWN	$2,900
3		BIKE THE NECK	BIKEWAY	ADD BIKE FACILITIES	WACCAMAW NECK, GEORGETOWN COUNTY	$950
3		MONORAIL-PHASE 2	TRANSIT	EXTEND TO MURRELLS INLET AND NORTH MB	REGIONAL	$185,500
3		VARIOUS	TRANSIT	PHASES 2 AND 3 COSTS (EXC MONORAIL)	REGIONAL	$270,185
					SUBTOTAL	$586,949
					CONTINGENCY @ 15% (exc transit)	$19,690
					TOTAL PRIORITY GROUP 3	$606,639

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Exhibit C

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STATE OF SOUTH CAROLINA
COUNTY OF HORRY
CITY OF MYRTLE BEACH

RESOLUTION SUPPORTING THE FINDINGS AND RECOMMENDATIONS OF THE RIDE COMMITTEE REPORT OF SEPTEMBER 1996.

WHEREAS, the serious transportation problem and traffic congestion are an ever increasing threat to the public safety and welfare, and the future economic development of Horry County and the State of South Carolina; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H.B. Limehouse, Chairman of the South Carolina Department of Transportation, form a special committee, which consisted of nine members and became known as the Road Improvement and Development Effort (RIDE Committee), to prepare a study on Horry County transportation problems and potential solutions; and

WHEREAS, the RIDE Committee considered both short term and long term solutions to the serious transportation problems and traffic congestion on Horry County roads; and

WHEREAS, the RIDE Committee presented the results of their study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996, and municipal bodies of Horry County on October 3, 1996; and

WHEREAS, the plan presented will provide substantial traffic relief and require participation in the funding package by the citizens of Horry County, as outlined by the proposed implementation of a 1.5 percent hospitality fee for a period of up to 20 years in partnership with the State of South Carolina, who will contribute substantial funding; and

WHEREAS, in order to solve the serious transportation and traffic congestion problems in Horry County, it is essential that the people and governments of Horry County work together harmoniously toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that Myrtle Beach City Council strongly and unanimously support the RIDE Committee Report to Governor David M.

Beasley; and further urges Horry County Council to enact expeditiously the necessary ordinances to implement the RIDE Committee report.

SIGNED AND SEALED this 8th day of October, 1996.

ATTEST:

JOAN GROVE, CITY CLERK

ROBERT M. GRISSOM, MAYOR

RACHEL BROADHURST, COUNCIL MEMBER

WILSON CAIN, COUNCIL MEMBER

HARRY CHARLES, COUNCIL MEMBER

JOHN MAXWELL, COUNCIL MEMBER

MARK S. McBRIDE, COUNCIL MEMBER

CRAIN WOODS, COUNCIL MEMBER

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Exhibit D

ELECTRONICALLY FILED - 2019 May 03 3:34 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

RESOLUTION

Whereas, transportation problems and traffic congestion present a serious concern for the welfare and public safety, and the future economic development of Atlantic Beach, Horry County, and the State of South Carolina; and

Whereas, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H.B. Limehouse, Chairman of the South Carolina Highway Commission, form a special committee which consist of nine members and become known as the Road Improvement and Development Effort (R.I.D.E.) Committee to prepare a study on Horry County transportation problems and potential solutions; and

Whereas, the R.I.D.E. Committee presented the results of the study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996; and

Whereas, the plan provides for substantial relief and requires participation in the funding package by the citizens of Horry County to include a 1.5% hospitality fee for a period of up to twenty years in partnership with the substantial funding; and

Whereas, in order to solve the serious transportation and traffic congestion problem in Horry County it is essential that the people and the governments of Horry County work together harmonically toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that the Atlantic Beach City Council support the R.I.D.E. Committee Report to Governor David M. Beasley; and further urges Horry County Council to enact expeditiously the necessary ordinance to implement the R.I.D.E. Committee Report.

DATED at Atlantic Beach , South Carolina, this 2nd day of December, 1996.

Irene Armstrong, Mayor

Attest:

City Clerk

ELECTRONICALLY FILED - 2019 May 03 3:34 PM - HORRY - COMMON PLEAS - CASE#2019CP2601732

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
TOWN OF AYNOR

RESOLUTION

WHEREAS, the serious transportation problems and traffic congestion are an ever increasing threat to the public safety and welfare, and the future economic development of Horry County and the State of South Carolina; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H. B. Limehouse, Chairman of the South Carolina Department of Transportation, form a special committee, which consisted of nine members and became known as the Road Improvement and Development Effort (RIDE Committee), to prepare a study on Horry County transportation problems and potential solutions; and

WHEREAS, the RIDE Committee considered both short term and long term solutions to the serious transportation problems and traffic congestion on Horry County roads; and

WHEREAS, the RIDE Committee presented the results of their study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 18, 1996, and municipal bodies of Horry County on October 3, 1996; and

WHEREAS, the plan presented will provide a substantial traffic relief and require participation in the funding package by the citizens of Horry County, as outlined by the proposed implementation of a 1.5 percent hospitality fee for a period of up to 20 years in partnership with the State of South Carolina, who will contribute substantial funding; and

WHEREAS, in order to solve the serious transportation and traffic congestion problems in Horry County, it is essential that the people and governments of Horry County work together harmoniously toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that Aynor Town Council strongly and unanimously support the RIDE Committee Report to Governor David M. Beasley; and further urges Horry County Council to enact expeditiously

the necessary ordinances to implement the RIDE Committee report.

SIGNED SEALED THIS 21st DAY OF October, 1996.

ATTEST:

OPAL DORSETT, CITY CLERK

JOHN W. DAWSEY, MAYOR

LYNN CAPPS, COUNCIL MEMBER

JOHN GARDNER, COUNCIL MEMBER

KEB JOHNSON, COUNCIL MEMBER

CRAIG MORRISON, COUNCIL MEMBER

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STATE OF SOUTH CAROLINA)
COUNTY OF HORRY) RESOLUTION
CITY OF CONWAY)

WHEREAS, the serious transportation problem and traffic congestion are an ever increasing threat to the public safety and welfare, and the future economic development of Horry County and the State of South Carolina; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H.B. Limehouse, Chairman of the S.C. Department of Transportation, form a special committee which consisted of nine members and became known as the Road Improvement and Development Effort (RIDE Committee), to prepare a study on Horry County transportation problems and potential solutions; and

WHEREAS, the RIDE Committee considered both short term and long term solutions to the serious transportation problems and traffic congestion on Horry County roads; and

WHEREAS, the RIDE Committee presented the results of their study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996, and municipal bodies of Horry County on October 3, 1996; and

WHEREAS, the plan presented will provide substantial traffic relief and require participation in the funding package by the citizens of Horry County, as outlined by the proposed implementation of a 1.5 percent hospitality fee for a period of up to 20 years in partnership with the State of South Carolina, who will contribute substantial funding; and

WHEREAS, in order to solve the serious transportation and traffic congestion problems in Horry County, it is essential that the people and governments of Horry County work together harmoniously toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that Conway City Council strongly and unanimously support the RIDE Committee Report to Governor David M. Beasley; and further urges Horry County Council to enact expeditiously the necessary ordinances to implement the RIDE Committee report.

SIGNED AND SEALED this 28th day of October, 1996.

Gregory K. Martin, Mayor

ATTEST:
Carolyn Stevens, City Clerk

Miriam Webb, Mayor Pro Tem

William A. Graham, Jr.

Edwin F. Brown, Jr.

Leslie H. McIver, Sr.

Barbara Jo Blain

Vivian E. Chestnut

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RESOLUTION NUMBER 13-96-

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY) R E S O L U T I O N
CITY OF LORIS)

WHEREAS, the serious transportation problems and traffic congestion are an ever increasing threat to the public safety and welfare, and the future economic development of Horry County and the State of South Carolina; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H. B. Limehouse, Chairman of the South Carolina Department Of Transportation, form a special committee, which consisted of nine members and became known as the Road Improvement and Development Effort (Ride Committee), to prepare a study on Horry County Transportation problems and potential solutions; and

WHEREAS, the RIDE Committee considered both short term and long term solutions to the serious transportation problems and traffic congestion on Horry County roads; and

WHEREAS, the RIDE Committee presented the results of their study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996, and municipals bodies of Horry County on October 3, 1996; and

WHEREAS, the plan presented will provide a substantial traffic relief and require participation in the funding package by the citizens of Horry County, as outlined by the proposed implementation of a 1.5 percent hospitality fee for a period of up to 20 years in partnership with the State of South Carolina, who will contribute substantial funding; and

WHEREAS, in order to solve the serious transportation and traffic congestion problems in Horry County, it is essential that the people and governments of Horry County work together harmoniously toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that the City Of Loris strongly and unanimously support the RIDE Committee Report to Governor David M. Beasley; and further urges Horry County Council to enact expeditiously the necessary ordinances to implement the RIDE Committee report.

SIGNED, SEALED THIS 4TH DAY OF NOVEMBER, 1996.

ATTEST:

MARTHA G. DORMAN, CLERK

DAVID E. STOUDENMIRE, JR., MAYOR

MARTIN L. CLINE, COUNCIL

JOAN S. GAUSE, COUNCIL

JAMES R. HERRING, COUNCIL

MICHAEL E. SUGGS, COUNCIL

FRED D. WATSON, COUNCIL

ESTELLE S. WRIGHT, COUNCIL

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R E S O L U T I O N

WHEREAS, transportation problems and traffic congestion present a serious concern for the welfare and public safety, and the future economic development of North Myrtle Beach, Horry County, and the State of South Carolina; and

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H.B. Limehouse, Chairman of the South Carolina Highway Commission, form a special committee which consisted of nine members and became known as the Road Improvement and Development Effort (R.I.D.E.) Committee to prepare a study on Horry County transportation problems and potential solutions; and

WHEREAS, the R.I.D.E. Committee presented the results of the study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996; and

WHEREAS, the plan provides for substantial relief and requires participation in the funding package by the citizens of Horry County to include a 1.5% hospitality fee for a period of up to twenty years in partnership with the State of South Carolina, who will contribute substantial funding; and

WHEREAS, in order to solve the serious transportation and traffic congestion problem in Horry County it is essential that the people and the governments of Horry County work together harmoniously toward that common goal.

NOW, THEREFORE, BE IT RESOLVED that the North Myrtle Beach City Council support the R.I.D.E. Committee Report to Governor David M. Beasley; and further urges Horry County Council to enact expeditiously the necessary ordinance to implement the R.I.D.E. Committee Report.

DATED at North Myrtle Beach, South Carolina, this 4th day of November, 1996.

Philip H. Tilghman, Mayor

ATTEST:

City Clerk

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Resolution

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
TOWN OF SURFSIDE BEACH)

IN SUPPORT OF THE
R I D E COMMITTEE
REPORT

WHEREAS, the serious transportation problems and traffic congestion are an ever increasing threat to the public safety and welfare, and the future economic development of Horry County and the State of South Carolina; and,

WHEREAS, the Honorable David M. Beasley, Governor of the State of South Carolina, requested that the Honorable H.B. Limehouse, Chairman of the South Carolina Department of Transportation, form a special committee, which consisted of nine (9) members, and became know as the "Road Improvement and Development Effort" (RIDE Committee), to prepare a study on Horry County transportation problems and potential solutions; and,

WHEREAS, the RIDE Committee considered both short term and long term solutions to the serious transportation problems and traffic congestion on Horry County Roads; and,

WHEREAS, the RIDE Committee presented the results of their study to the Governor on September 16, 1996, and to the South Carolina Department of Transportation Commission on September 19, 1996, and municipal bodies of Horry County on October 3, 1996; and,

WHEREAS, the plan presented will provide substantial traffic relief and require participation in the funding package by the citizens of Horry County, as outlined by the proposed implementation of a 1.5 percent Hospitality Fee for a period of up to twenty (20) years, in partnership with the State of South Carolina, which will contribute substantial funding; and,

WHEREAS, in order to solve the serious transportation and traffic congestion problems in Horry County, it is essential that the people and governments of Horry County work together harmoniously toward that common goal,

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Town Council of Surfside Beach strongly and unanimously support the RIDE Committee Report to Governor David M. Beasley, and further urges Horry County Council to expeditiously enact the necessary ordinances to implement the RIDE Committee Report.

SIGNED, SEALED, AND ADOPTED THIS 12th DAY OF October 19 96

Dick M. Johnson
MAYOR

TOWN COUNCIL

Thomas M. Hyzer
TOWN COUNCIL

Roy Hyman Jr.
TOWN COUNCIL

Judith L. Lowe
TOWN COUNCIL

P. L. Mabry
TOWN COUNCIL

Frankie E. Rabon
TOWN COUNCIL

ATTEST:
Elaine H. Coward
TOWN CLERK

#96-04

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Exhibit E

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EXECUTIVE SUMMARY

On behalf of Horry County, this application is being presented to the South Carolina Transportation Infrastructure Bank as a request for funding of the Road Improvement and Development Effort (RIDE) Project, which was presented to and approved by Governor David M. Beasley in September 1996.

Horry County's RIDE Project is the initiation of a comprehensive solution for transportation problems which pairs significant funding from the local level with funding provided by the State of South Carolina. Horry County enacted an ordinance in the fall of 1996 that implemented a 1.5-percent hospitality fee (accommodations, restaurants, amusements, golf, and theaters) effective January 1, 1997. The purpose of this fee is to provide the financial ability for Horry County to partner with the State of South Carolina to meet the infrastructure needs of the County.

The participating parties of the RIDE Project are Horry County, the South Carolina Transportation Infrastructure Bank and the South Carolina Department of Transportation. The role of the South Carolina Transportation Infrastructure Bank is to provide the necessary financing and funding for the RIDE Project. It is Horry County's intent to contract with the South Carolina Department of Transportation to manage the design, construction, and implementation of the RIDE Project. Horry County, in addition to providing 30 percent of the overall cost of the RIDE Project, will provide limited oversight to ensure that project schedules are met.

The total cost of the RIDE Project is $774 million ($698 million in 1997 dollars, escalated at 4.5 percent per year over the construction period, seven years). The total debt service over the life of the proposed bonds for the RIDE Project is $1.2 billion. Horry County's contribution to retire the debt is $368 million; the South Carolina Transportation Infrastructure Bank is requested to fund the balance of the debt service, $859 million.

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INTRODUCTION

On behalf of Horry County, this application is being presented to the South Carolina Transportation Infrastructure Bank as a request for funding of the Road Improvement and Development Effort (RIDE) Project, which was presented to and approved by Governor David M. Beasley in September 1996. The RIDE Project provides solutions for today's needs as well as addressing the long term transportation requirements for the Grand Strand. This application is requesting funding for the implementation of the RIDE Project. Horry County's RIDE Project is the initiation of a comprehensive solution for transportation problems which pairs significant funding from the local level with funding provided by the State of South Carolina.

DESCRIPTION OF THE PROJECT

The Horry County RIDE Project (implementable between 1998 and 2004) provides relief to the traffic congestion resulting from immense growth in the County's tourist population as well as permanent residents. The current road infrastructure does not accommodate a community with a fluctuating population of 250,000 to 750,000 people daily, and therefore results in significant delays, congestion, frustration, fuel consumption, and safety problems, as well as hurricane evacuation concerns.

The RIDE Project includes a series of interconnected highway construction and road enhancements that will improve the overall transportation network in Horry County. These include (refer to Figure 1):

- **Conway Bypass** - A fully controlled access facility from U.S. 17 [the bridge at Briarcliffe complete with interchange at U.S. 17] to U.S. 501 between Aynor and Conway. The facility will consist of six-lane fill/bridging/paving between U.S. 17 and Carolina Bays Parkway, six-lane fill/bridging/four-lane paving between Carolina Bays Parkway and S.C. 90, three-lane fill/bridging/two-lane paving between S.C. 90 and S.C. 905, and two-lane fill/bridging/paving between S.C. 905 and U.S. 501, with temporary at-grade access allowed at U.S. 501, S.C. 319, U.S. 701, S.C. 905, and S.C. 90. The cost includes the purchase of right-of-way as originally designed.

RIDE PROJECT

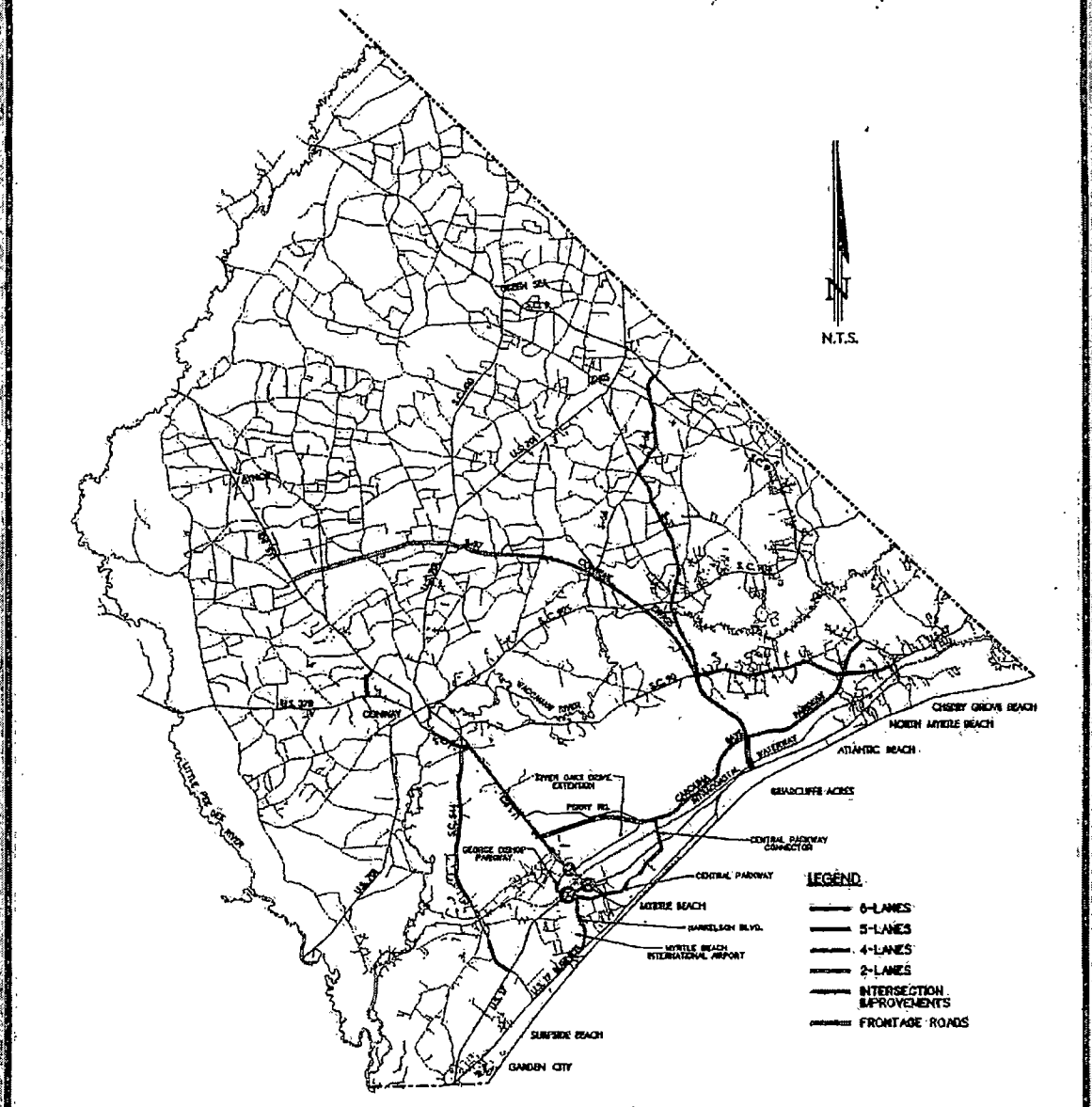

Figure 1

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- **Carolina Bays Parkway** - A fully controlled access facility, six-lane fill/bridging/four-lane paving from S.C. 9 to U.S. 501, including the Central Parkway connector crossing the Atlantic Intracoastal Waterway to U.S. 17 Bypass [four-lane fill/bridging/two-lane paving]. The cost includes the purchase of right-of-way as originally designed.

- **S.C. 544** - Five lanes from the U.S. 17 Bypass to U.S. 501.

- **U.S. 501** - Frontage road system between the Atlantic Intracoastal Waterway and Forestbrook Road, intersection improvements between Forestbrook Road and the Waccamaw River, and an overpass at George Bishop Boulevard/River Oaks Drive.

- **Central Parkway** - Four lanes from the Central Parkway connector (between 48th Avenue North and 62nd Avenue North) to Harrelson Boulevard (in the vicinity of the Myrtle Beach International Airport).

- **Fantasy Harbour Bridge Interchange** - Four-lane bridge/interchange that will create the final leg of what is to be called the Metropolitan Loop, which includes Central Parkway, George Bishop Boulevard, and River Oaks Drive and Extension.

- **Conway Perimeter Road** -Four lanes from U.S. 501 on the west side of Conway to U.S. 378).

- **Intersection/Interchange Improvements** - Along S.C. 90 between Conway Bypass and S.C. 9, S-31, S-66, and U.S. 17 Bypass.

Appendix A consists of a copy of the RIDE Report to Governor David M. Beasley (September 1996) as well as Resolutions passed supporting the RIDE Project by the municipalities within Horry County, Horry County Board of Education, and South Carolina Department of Transportation. This RIDE report details the objectives of the short and long term transportation needs of Horry County. It also provides a brief history of the difficulty Horry County has faced in trying to fund their transportation infrastructure needs which jeopardizes the significant economic contribution Horry County provides the State of South Carolina through tourism.

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PUBLIC BENEFITS

The Grand Strand has grappled with solutions to severe traffic congestion since 1984. Community business groups, such as the Area Council on Transportation and Carolina Bays Parkway Task Force, have spent over 15 years trying to find solutions to the increasing commuter and tourism traffic along the Grand Strand. The approval of the RIDE Report by Governor David M. Beasley in September 1996 gave the Grand Strand a sense of hope that finally something would be done to alleviate their problems. The Governor's approval led to the passage of Resolutions passed supporting the RIDE Project by the municipalities within Horry County, Horry County Board of Education, and South Carolina Department of Transportation (refer to Appendix A).

Economic benefits of the RIDE Project include both reductions in the cost of transportation and the potential for increased economic activity. Highways are best thought of as "tools" for moving goods and people from one place to another. In this sense, highways lower real and perceived transportation costs. The main way that transportation investments can contribute to economic growth is by reducing the cost of moving people and goods. When they save time, enhance safety, and/or cut vehicle-operating costs, travelers benefit. Their transportation cost savings are net gains to society. Public benefits fall into five primary categories:

- **Economics** – The increase in mobility associated with construction of the RIDE Project can conservatively be expected to increase statewide employment by more than 20,800 jobs by the year 2010.[1] Furthermore, the gross state product (value added) could be increased by $896 million between the years 2001 and 2010. Construction of the RIDE Project is imperative to maintaining the growth of the healthy tourism industry that currently supplies a significant amount of the tax revenue to the State of South Carolina. Currently, approximately 13 million tourists enjoy the Grand Strand and contribute to South Carolina's tax revenues, while experiencing frustration and delays on the roads that make their vacation experience much less than their expectations. Tourism must continue to grow for the area and the State to prosper. Adoption of the RIDE Project will be a major factor in insuring growth rather than decline. The RIDE project also provides an

[1]THE LPA GROUP INCORPORATED in association with Wilbur Smith Associates (September 1993). *Carolina Bays Parkway Feasibility Study.* Prepared for the Horry County Higher Education Commission.

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increase in employment that accompanies the resulting growth. This employment growth affects in addition to Horry County, but also Georgetown, Williamsburg, and Marion Counties who are currently experiencing unemployment rates of 8.4, 16.7, and 8.6 percent, respectively, and to some extent Sumter and Florence Counties.

- **Convenience** – Currently both local residents and the 13 million tourists that visit Horry County on an annual basis find themselves driving on congested roads. Without action, the situation will only get worse as Horry County is projected to be the second fastest growing county in the United States through the year 2005. Implementation of the RIDE project, will significantly improve access to and exiting from Myrtle Beach, as well as enhancing daily traffic movement within the County. With the implementation of the RIDE Project, examples of improved mobility across the traffic network would be an average travel speed of 29 miles per hour, 12,524,830 total vehicle miles traveled, and 430,545 total vehicle hours. Without implementation of the RIDE Project, the average network travel speed would be 15 miles per hour, 12,828,510 total vehicle miles traveled, and 839,403 total vehicle hours.

- **Safety** – The road infrastructure in Horry County is currently just over capacity, which has a dramatic impact on traffic flow and access. The completion of the RIDE Project will significantly improve the traffic mobility and safety in Horry County.

- **Emergency Response** – Horry County's increased resident retirement population combined with the transient tourist population makes the need for efficient emergency response times critical to the area. By increasing the capacity of the roads designated in the RIDE Project, a substantial reduction in emergency response times by the public safety departments will result.

- **Hurricane Evacuation** – Hurricane evacuation is another pressing concern for Horry County. Should Horry County experience a hurricane during the peak tourist season, approximately 20 to 30 percent of the visitors and residents would be stranded due to the insufficient road infrastructure. The RIDE Project, once complete, would provide several evacuation route alternatives in addition to the current evacuation routes from the Grand Strand. Theses new routes will significantly improve the safety of evacuation procedures.

Technical analysis of our present highway system reported by the Grand Strand Area Transportation Study (GSATS) indicates that the region's present highway system is operating just over capacity and can not handle significant increases in traffic without intolerable delays. Table A of the daily traffic volumes, provided in Appendix B, is evidence of the benefits resulting from implementation of the RIDE Project.

FINANCIAL PLAN

Horry County enacted an ordinance in the fall of 1996 that implemented a 1.5-percent hospitality fee (accommodations, restaurants, amusements, golf, and theaters) effective January 1, 1997. The purpose of this fee is to provide the financial ability for Horry County to partner with the State of South Carolina to meet the infrastructure needs of the County. The total cost of the RIDE Project is $774 million ($698 million in 1997 dollars, escalated at 4.5 percent per year over the construction period, seven years, refer to Table 1). The anticipated cash requirements for the RIDE Project is provided in Column 2 on Table 2. The total debt service over the life of the proposed bonds for the RIDE Project is $1.2 billion, as shown in Column 4 on Table 2. Horry County's contribution to retire the debt is $368 million, outlined in Column 5 of Table 2. Horry County is requesting that the South Carolina Transportation Infrastructure Bank fund the balance of the debt service, $859 million as outlined in Column 6 of Table 2.

The projected financial plan includes the following assumptions:

- Local revenues are increased by a combined growth and inflation rate of 6.5 percent per year;
- Construction inflation is projected at 4.5 percent per year using 1997 dollars as the base (except for the Conway Bypass which has been negotiated between Fluor Daniel and South Carolina Department of Transportation); and,
- Twenty-year bonds were utilized with 5.5 percent interest rates.

The degree of financial risk is very low! Local participation for Horry County is funded by the 1.5-percent hospitality fee, which in Horry County carries approximately the same risk as a sales tax (i.e., very low risk). While this source of County participation is subject to severe weather, economic downturns, etc., the projected revenue collection of the hospitality fee allows a contingency amount to address those situations.

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Table 1
RIDE PROJECT
COST TIMELINE

FACILITY	COSTS (1997)	CONSTRUCTION TIMETABLE							
		1998	1999	2000	2001	2002	2003	2004	TOTAL
Conway Bypass (1997 costs provided by Fluor Daniel 9/16/97)									
U.S. 17 to Carolina Bays Parkway (6/6/6)	$77,500,000		$77,500,000						$77,500,000
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$0								$0
Carolina Bays Parkway to S.C. 90 (6/6/4)	$34,500,000		$34,500,000						$34,500,000
Diamond Interchange (Conway Bypass/S.C. 90)	$0								$0
S.C. 90 to S.C. 905 (3/3/2)	$39,700,000		$39,700,000						$39,700,000
S.C. 905 to S-97 (2/2/2)	$33,100,000			$33,100,000					$33,100,000
S-97 to U.S. 501 (2/2/2)	$33,200,000			$33,200,000					$33,200,000
Grade separations (6)	$24,800,000	$24,800,000							$24,800,000
Superpave	$2,300,000			$2,300,000					$2,300,000
Right-of-Way	$6,000,000	$6,000,000							$6,000,000
Contingency	$24,000,000	$24,000,000							$24,000,000
Subtotal	**$275,100,000**	**$54,800,000**	**$151,700,000**	**$68,600,000**	**$0**	**$0**	**$0**	**$0**	**$275,100,000**
Carolina Bays Parkway (1997 costs provided by LPA/WSA 9/30/97)									
S.C. 9 to Conway Bypass (6/6/4)	$69,600,000	$3,252,282		$7,806,672	$67,555,796				$78,614,750
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$13,000,000	$780,000				$14,530,720			$15,310,720
Conway Bypass to Central Parkway (6/6/4)	$38,800,000	$1,937,809		$1,597,633		$42,214,193			$45,749,635
Central Parkway Connector (4/4/2)	$28,900,000	$1,473,602		$570,583			$33,527,152		$35,571,337
Central Parkway to Carolina Forest Boulevard (6/6/4)	$0								$0
Central Parkway to U.S. 501 (6/6/4)	$65,000,000	$3,072,754		$6,550,294				$72,834,037	$82,457,085
Subtotal	**$215,300,000**	**$10,516,447**	**$0**	**$16,525,181**	**$67,555,796**	**$56,744,913**	**$33,527,152**	**$72,834,037**	**$257,703,526**
Central Parkway									
48th Avenue North to 29th Avenue North	$10,868,000		$527,448	$5,799,406	$5,759,865				$12,086,719
21st Avenue North to 10th Avenue North	$5,434,000	$5,678,530							$5,678,530
10th Avenue North to U.S. 501	$6,270,000		$301,399	$3,313,946	$3,291,351				$6,906,697
U.S. 501 to Harrelson Boulevard	$6,897,000		$470,936	$2,071,217	$5,142,736				$7,684,889
Subtotal	**$29,469,000**	**$5,678,530**	**$1,299,783**	**$11,184,569**	**$14,193,953**	**$0**	**$0**	**$0**	**$32,356,835**
Fantasy Harbour Bridge Interchange	$12,540,000	$3,135,000	$3,276,075	$3,423,498	$3,577,556				$13,412,129
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)	$13,585,000		$740,939	$6,224,542	$8,091,239				$15,056,720
U.S. 17/U.S. 501 Interchange (complete)	$12,853,500		$596,519	$7,132,288	$6,514,133				$14,242,940
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)	$7,837,500			$1,706,043	$17,828,153				$19,534,196
S.C. 544 (5-lanes - U.S. 17 to Socastee Bridge)	$7,419,500		$3,709,750	$3,709,750					$7,419,500

Table 1
RIDE PROJECT
COST TIMELINE

FACILITY	COSTS (1997)	CONSTRUCTION TIMETABLE							
		1998	1999	2000	2001	2002	2003	2004	TOTAL
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$54,340,000		$3,909,450	$14,298,812		$14,954,183	$15,627,121	$16,330,342	$65,119,908
SC 90 (intersection improvements between Conway Bypass and S.C. 9)	$4,702,500		$5,135,247.56						$5,135,248
S-31 and S-66 (intersection improvements)	$7,524,000		$8,216,396.10						$8,216,396
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	$42,636,000	$10,659,000	$22,277,310	$11,639,895					$44,576,205
U.S. 501/Carolina Forest Boulevard Interchange	$10,450,000		$11,411,661						$11,411,661
U.S. 501 (acceleration/deceleration lanes)	$4,180,000		$4,368,100						$4,368,100
TOTAL	$697,937,000	$84,788,977	$216,641,230	$144,444,578	$117,760,829	$71,699,096	$49,154,273	$89,164,379	$773,653,363
Bond Issue Amounts:		$84,788,977	$216,641,230	$144,444,578	$117,760,829	$71,699,096	$49,154,273	$89,164,379	$773,653,363
Payment for Each Bond (20 Yr. Bond)		$6,725,199	$17,183,311	$11,456,896	$9,340,424	$5,686,950	$3,898,765	$7,072,242	

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Table 2
RIDE PROJECT
DEBT SERVICE SCHEDULE

FISCAL YEAR (7/1-6/30)	SIB BOND AMOUNT REQUIRED*/** (20 Year Term)	ANNUAL BOND DEBT SERVICE AMOUNT	ANNUAL ESTIMATED TOTAL DEBT SERVICE (5.5% for 20 Years)	HORRY COUNTY PORTION OF BOND PAYMENT (Paid to SIB) (30% Contribution Ratio)	STATE PORTION OF BOND PAYMENT**
97/98	$84,788,977	$6,725,199	$6,725,199	$2,017,560	$4,707,639
98/99	$216,641,230	$17,183,311	$23,908,510	$7,172,553	$16,735,957
99/00	$144,444,578	$11,456,896	$35,365,406	$10,609,622	$24,755,784
00/01	$117,760,829	$9,340,424	$44,705,830	$13,411,749	$31,294,081
01/02	$71,699,096	$5,686,950	$50,392,780	$15,117,834	$35,274,946
02/03	$49,154,273	$3,898,765	$54,291,545	$16,287,464	$38,004,082
03/04	$89,164,380	$7,072,242	$61,363,787	$18,409,136	$42,954,651
04/05			$61,363,787	$18,409,136	$42,954,651
05/06			$61,363,787	$18,409,136	$42,954,651
06/07			$61,363,787	$18,409,136	$42,954,651
07/08			$61,363,787	$18,409,136	$42,954,651
08/09			$61,363,787	$18,409,136	$42,954,651
09/10			$61,363,787	$18,409,136	$42,954,651
10/11			$61,363,787	$18,409,136	$42,954,651
11/12			$61,363,787	$18,409,136	$42,954,651
12/13			$61,363,787	$18,409,136	$42,954,651
13/14			$61,363,787	$18,409,136	$42,954,651
14/15			$61,363,787	$18,409,136	$42,954,651
15/16			$61,363,787	$18,409,136	$42,954,651
16/17			$61,363,787	$18,409,136	$42,954,651
17/18			$54,638,588	$16,391,576	$38,247,012
18/19			$37,455,277	$11,236,583	$26,218,694
19/20			$25,998,381	$7,799,514	$18,198,867
20/21			$16,657,957	$4,997,387	$11,660,570
21/22			$10,971,007	$3,291,302	$7,679,705
22/23			$7,072,242	$2,121,673	$4,950,569
TOTAL	**$773,653,363**	**$61,363,787**	**$1,227,275,740**	**$368,182,722**	**$859,093,018**

NOTE: Growth Rate + Inflation Rate Assumed: 6.5%

Source of Local Revenue: 1.5% Hospitality Fee

Debt service calculations are based on annual principal plus interest payments paid at the beginning of each year. 20 Year Term Per Bond. Fixed Interest Rate Used: 5.5%.

* Refer to Table 2 Cost Timetable.

** The SCDOT Commission has committed $114,000,000 (or equivalent debt service) to the South Carolina Transportation Infrastructure Bank for the Conway Bypass.

Other contributions include the South Carolina Department of Transportation commitment of $114 million (or equivalent $10 million debt service per year) to fund a portion of the Conway Bypass phase of the RIDE Project. All components of the RIDE Project have been structured to capture any federal funding that might become available (i.e., appropriate federal regulations and requirements have been and will be followed).

In an effort to reduce maintenance expense and extend the life of the Conway Bypass and Carolina Bays Parkway, the cost of superpaving has been included. This will significantly reduce the routine maintenance effort for the South Carolina Department of Transportation of these primary roads. Horry County will also contribute $100,000 per year for 20 years to the South Carolina Department of Transportation, to be placed in an escrow interest bearing account for use in the resurfacing of the Conway Bypass and Carolina Bays Parkway, as deemed necessary by the South Carolina Department of Transportation. State and local maintenance participation on secondary roads will be defined at the completion of construction of each facility.

Please refer to Table 2, Column 1 for the schedule of requested funds.

PROJECT APPROACH

The project schedule shown on Figure 2, illustrates that given sufficient funding provided by the South Carolina Transportation Infrastructure Bank, South Carolina Department of Transportation, and Horry County, the RIDE Project will be completed with the time frame indicated. The cost estimates outlined in preceding sections of this application are based on building the roads to American Association of State Highway and Transportation Officials (AASHTO) standards. Those standards project a life of 20 years before resurfacing is required. Table 3 provides the project cost components. Table 4 accompanies Figure 2 and outlines the factors (necessary steps) required to initiate construction. At this time there are no obstacles (legal issues, lack of support, environmental concerns) anticipated that would deter the implementation of the RIDE Project.

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RIDE PROJECT SCHEDULE

PROJECT NAME	1998	1999	2000	2001	2002	2003	2004
Conway Bypass							
Carolina Bays Parkway (4-Lane)							
Central Parkway							
Fantasy Harbour Bridge Interchange							
Conway Perimeter Road							
U.S. 17 / 501 Interchange							
U.S. 501 (George Bishop Overpass)							
S.C. 544 (Widening Between Socastee Bridge and Conway)							
S.C. 90 Intersection Improvements							
S-31 / S-66 Intersection Improvements							
U.S. 501 (Frontage Road Between Forestbrook Road and AKW)							
U.S. 501 Carolina Forest Boulevard							
U.S. 501 Improvements							

LEGEND

- Environmental and / or Design
- Right - of - Way Aquisition
- Construction

Ride

Figure 2

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Table 3
RIDE PROJECT
PROJECT COST COMPONENTS

FACILITY	COSTS (1997)	ENVIRONMENTAL/ ENGINEERING	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION	MAINTENANCE
Conway Bypass (1997 costs provided by Fluor Daniel 9/16/97)					
U.S. 17 to Carolina Bays Parkway (6/6/6)	$77,500,000			$77,500,000	
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$0				
Carolina Bays Parkway to S.C. 90 (6/6/4)	$34,500,000			$34,500,000	
Diamond Interchange (Conway Bypass/S.C. 90)	$0				
S.C. 90 to S.C. 905 (3/3/2)	$39,700,000			$39,700,000	
S.C. 905 to S-97 (2/2/2)	$33,100,000			$33,100,000	
S-97 to U.S. 501 (2/2/2)	$33,200,000			$33,200,000	
Grade separations (6)	$24,800,000			$24,800,000	
Superpave	$2,300,000				$2,300,000
Right-of-Way	$6,000,000		$6,000,000		
Contingency	$24,000,000			$24,000,000	
Subtotal	**$275,100,000**	**$0**	**$6,000,000**	**$266,800,000**	**$2,300,000**
Carolina Bays Parkway (1997 costs provided by LPA/WSA 9/30/97)					
S.C. 9 to Conway Bypass (6/6/4)	$69,600,000	$3,112,232	$6,840,960	$58,746,808	$900,000
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$13,000,000	$910,000	$0	$11,990,000	$100,000
Conway Bypass to Central Parkway (6/6/4)	$38,800,000	$1,854,363	$1,400,000	$35,245,637	$300,000
Central Parkway Connector (4/4/2)	$28,900,000	$1,410,145	$500,000	$26,789,855	$200,000
Central Parkway to Carolina Forest Boulevard (6/6/4)	$0	$0	$0	$0	
Central Parkway to U.S. 501 (6/6/4)	$65,000,000	$2,940,434	$5,740,000	$55,519,566	$800,000
Subtotal	**$215,300,000**	**$10,227,174**	**$14,480,960**	**$188,291,866**	**$2,300,000**
Central Parkway					
48th Avenue North to 29th Avenue North	$10,868,000	$504,735	$5,310,690	$5,052,575	
21st Avenue North to 10th Avenue North	$5,434,000			$5,434,000	
10th Avenue North to U.S. 501	$6,270,000	$288,420	$3,034,680	$2,946,900	
U.S. 501 to Harrelson Boulevard	$6,897,000	$450,656	$1,896,675	$4,549,669	
Subtotal	**$29,469,000**	**$1,243,811**	**$10,242,045**	**$17,983,144**	**$0**
Fantasy Harbour Bridge Interchange	$12,540,000			$12,540,000	
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)	$13,585,000	$709,033	$5,700,000	$7,175,968	
U.S. 17/U.S. 501 Interchange (complete)	$12,853,500	$570,831	$6,531,250	$5,751,419	
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)	$7,837,500		$1,706,043	$6,131,457	
S.C. 544 (5-lanes - U.S. 17 to Socastee Bridge)	$7,419,500			$7,419,500	
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$54,340,000	$3,741,100	$13,093,850	$37,505,050	
S.C. 90 (intersection improvements between Conway Bypass and S.C. 9)	$4,702,500	$300,437.50	$1,306,250	$3,095,813	

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Table 3
RIDE PROJECT
PROJECT COST COMPONENTS

FACILITY	COSTS (1992)	ENVIRONMENTAL/ ENGINEERING	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION	MAINTENANCE
S-31 and S-66 (intersection improvements)	$7,524,000	$540,787.50	$1,567,500	$5,415,713	
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	$42,636,000	$1,358,500.00		$41,277,500	
U.S. 501/Carolina Forest Boulevard Interchange	$10,450,000	$627,000	$418,000	$9,405,000	
U.S. 501 (acceleration/deceleration lanes)	$4,180,000	$250,800	$522,500	$3,406,700	
TOTAL	$697,937,000	$19,569,474	$61,568,398	$612,199,128	$4,600,000

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Table 4
RIDE PROJECT
PROJECT STATUS

FACILITY	ENVIRONMENTAL	PERMITTING	PRELIMINARY DESIGN	FINAL DESIGN	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION
Conway Bypass	complete	complete	complete	underway	underway	initiated
Carolina Bays Parkway	underway	underway				
Central Parkway			underway			
Fantasy Harbour Bridge Interchange						
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)						
U.S. 17/U.S. 501 Interchange (complete)						
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)						
S.C. 544 (5-lanes - U.S. 17 to Socastee Bridge)	complete	complete	complete	underway	underway	
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)						
S.C. 90 (intersection improvements between Conway Bypass and S.C. 9)						
S-31 and S-66 (intersection improvements)						
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	complete	complete	complete	underway	underway	
U.S. 501/Carolina Forest Boulevard Interchange						
U.S. 501 (acceleration/deceleration lanes)						

The participating parties of the RIDE Project are Horry County, the South Carolina Transportation Infrastructure Bank, and the South Carolina Department of Transportation. The role of the South Carolina Transportation Infrastructure Bank is to provide the necessary financing and funding for the RIDE Project.

It is Horry County's intent to contract with the South Carolina Department of Transportation to manage the design, construction, and implementation of the RIDE Project. Horry County, in addition to providing 30 percent of the overall cost of the RIDE Project, will provide limited oversight to ensure that project schedules are met.

Upon receipt of funding, South Carolina Department of Transportation is responsible for the construction of the RIDE Project including design, right-of-way, construction, maintenance, etc. South Carolina Department of Transportation is to use its judgement in determining whether a specific phase of the RIDE project should be design/build, traditional, or any other methodology of road construction so as to meet the schedule outlined in the RIDE Project (refer to Figure 2).

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OFFICE OF COUNTY ADMINISTRATOR

LINDA G. ANGUS, COUNTY ADMINISTRATOR

October 15, 1997

Mr. Howard "Champ" Covington, Jr., Chairman
South Carolina State Transportation
Infrastructure Bank
P.O. Box 191
Columbia, South Carolina 29202-0191

Dear Mr. Covington,

Horry County is pleased to submit twenty (20) copies of our application to the State Transportation Infrastructure Bank for funding of the Road Improvement and Development Effort (RIDE) Project, which was presented to and approved by Governor David M. Beasley in September 1996, and has been endorsed by all the local governing bodies of Horry County.

Your approval and subsequent financing of this project will be the first step in implementing this much needed infrastructure improvement necessary to sustain the economic viability and growth of the Grand Strand, as well as ensure safe travelways and evacuation routes for tourists and local citizens of Horry County.

It has been brought to our attention that the Bank may consider additional funding to four-lane the Conway Bypass in its entirety. The RIDE project (which two lanes a portion of the Conway Bypass) presented in the application is the plan adopted by the RIDE Committee. This plan was formulated after many meetings, public input and consideration of financial limitations. Any change to the plan presented must be approved by the RIDE Committee.

Horry County would like the Bank to know that, while the completion of the Conway Bypass is very important, it can in no way jeopardize the implementation of the entire RIDE project as presented. Therefore, if the Bank decides to add the additional $147 million required to four-lane the entire Bypass, the RIDE Committee and the County would agree to that addition of state funds provided the funding for the RIDE project remains intact as presented.

Sincerely,
HORRY COUNTY

Linda Green Angus
County Administrator

LGA:sb
ride

Attachments

c: The Honorable John Kost
The Honorable James Frazier
Gary Loftus, RIDE Chairman
Steven S. Gosnell, P.E., Director of Public Works Division
Tanya Quickel, Director of Finance Division

*103 Elm Street • Post Office Box 1236 • Conway, SC 29528-1236 • **Phone:** 248-1203 • 626-1203 • **Fax:** 248-1378*

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Exhibit F

TRANSPORTATION for HORRY COUNTY

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Revised

APPLICATION

to the

State Transportation Infrastructure Bank Board

Submitted by:

Horry County
November 1997

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OFFICE OF COUNTY ADMINISTRATOR

LINDA G. ANGUS, COUNTY ADMINISTRATOR

November 20, 1997

Mr. Howard "Champ" Covington, Chairman
South Carolina Transportation Infrastructure Bank
955 Park Street
Post Office Box 191
Columbia, SC 29202

RE: Revised Horry County Application

Dear Mr. Covington:

Horry County is pleased to submit for the Bank's review the revised application, as directed by the Bank on November 11, 1997. Please note that Horry County Council approved a unanimously resolution supporting the application on November 18, 1997 (included as Appendix A in the application). We have also provided the Bank's review copies of the Ordinances that implement the 1.5 percent hospitality fee (included as Appendix B in the application).

The County looks forward to a favorable review and approval of this resubmittal. In the meantime should you have any questions please call me at (803) 248-1203.

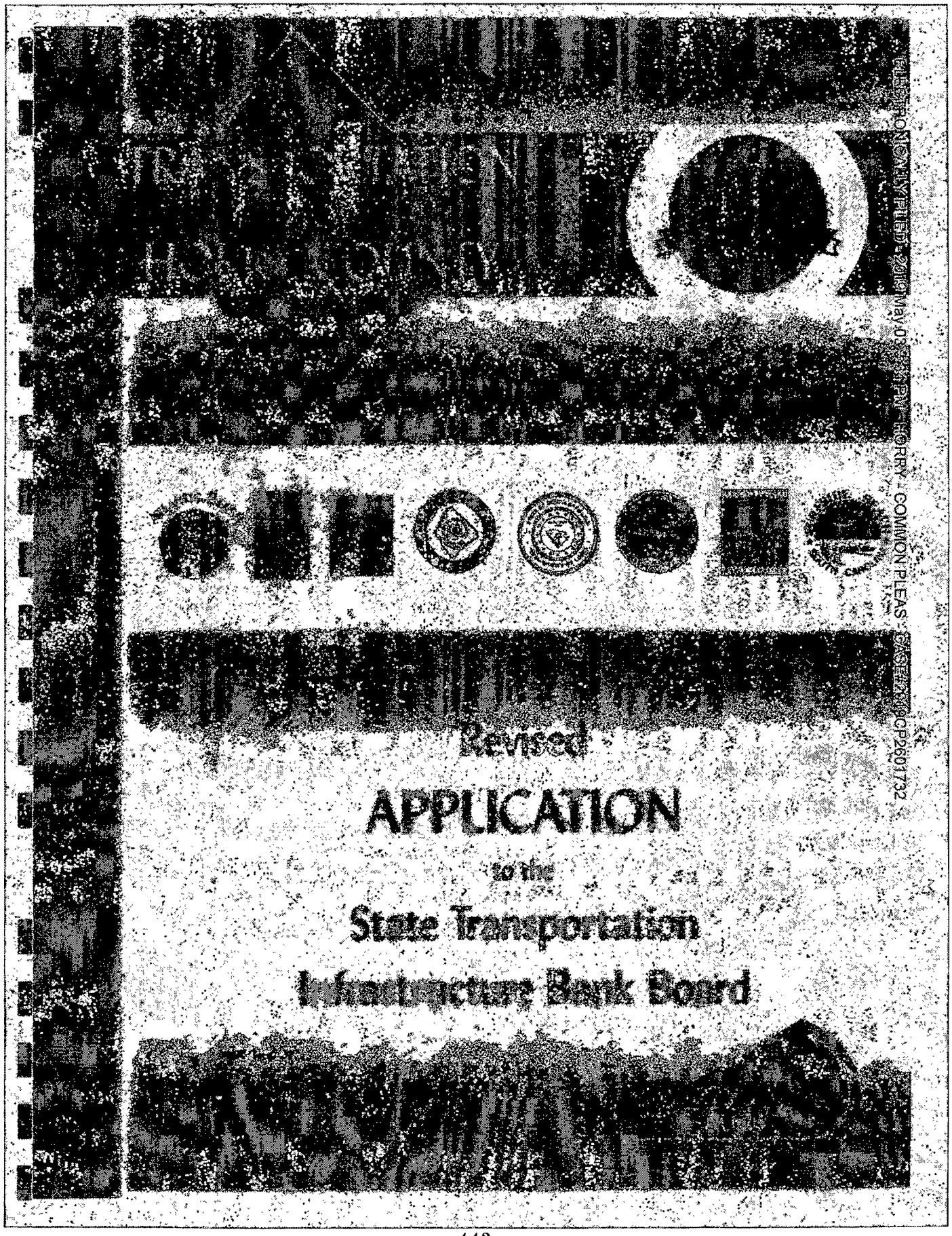
Sincerely,

Linda G. Angus

Linda G. Angus
Horry County Administrator

LGA/slp
enclosures

*103 Elm Street • Post Office Box 1236 • Conway, SC 29528-1236 • **Phone:** 248-1203 • 626-1203 • **Fax:** 248-1378*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Revised
APPLICATION
to the
State Transportation
Infrastructure Bank Board

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EXECUTIVE SUMMARY

On behalf of Horry County, this revised application is being presented to the South Carolina Transportation Infrastructure Bank as a request for funding a portion of the Horry County Road Improvement and Development Effort Project (County RIDE Project). The Original County RIDE Project was presented to and approved by Governor David M. Beasley in September 1996.

Horry County's RIDE Project is the initiation of a comprehensive solution for transportation problems which pairs significant funding from the local level (49 percent) with funding provided by the State of South Carolina. Horry County enacted an ordinance in the fall of 1996 that implemented a 1.5-percent hospitality fee (accommodations, restaurants, amusements, golf, and theaters) effective January 1, 1997. The purpose of this fee is to provide the financial ability for Horry County to partner with the State of South Carolina to meet the infrastructure needs of the County.

The participating parties of the County RIDE Project are Horry County, the South Carolina Transportation Infrastructure Bank, and the South Carolina Department of Transportation. The role of the South Carolina Transportation Infrastructure Bank is to provide the necessary financing and funding for the County RIDE Project. It is Horry County's intent to contract with the South Carolina Department of Transportation to manage the design, construction, and implementation of the County RIDE Project. Horry County, in addition to providing 49 percent of the overall cost of the County RIDE Project, will provide limited oversight to ensure that project schedules are met.

The revised cost of the County RIDE Project that is being requested for funding by the South Carolina Transportation Infrastructure Bank is $545 million. The total debt service over the life of the proposed bonds for the County RIDE Project is $864.6 million. Horry County's contribution to retire the debt is $300 million; the South Carolina Transportation Infrastructure Bank is requested to fund the balance of the debt service, $564.6 million.

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INTRODUCTION

On behalf of Horry County, this revised application is being presented to the South Carolina Transportation Infrastructure Bank as a request for funding a portion of the Road Improvement and Development Effort Project (County RIDE Project, refer to Appendix A for a copy of the Resolution). The Original RIDE Project was presented to and approved by Governor David M. Beasley in September 1996. The County RIDE Project provides solutions for today's needs as well as addressing the long term transportation requirements for the Grand Strand. This application is requesting funding for the implementation of the County RIDE Project. Horry County's RIDE Project is the initiation of a comprehensive solution for transportation problems which pairs significant funding from the local level with funding provided by the State of South Carolina.

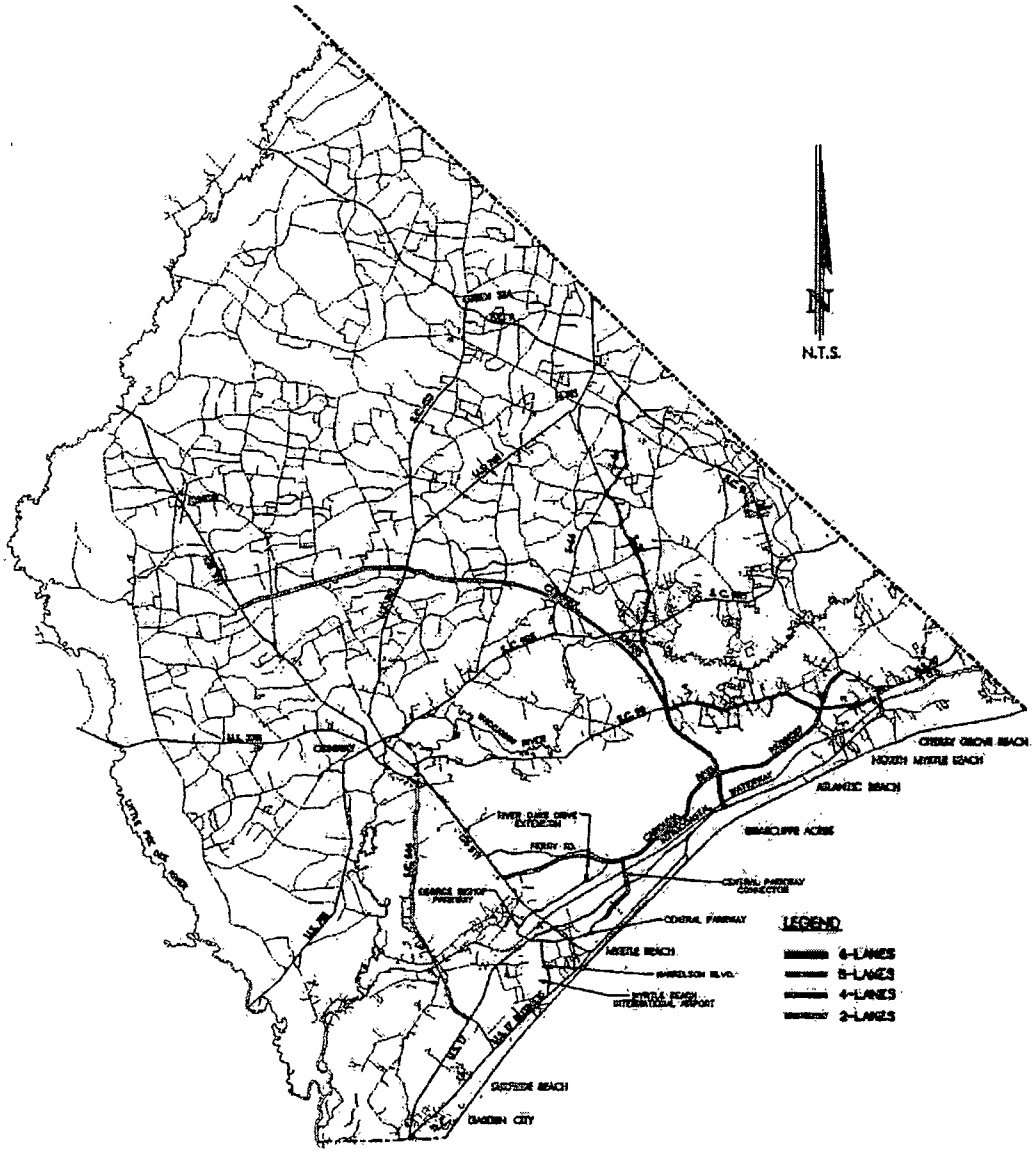
DESCRIPTION OF THE PROJECT

The Horry County RIDE Project (implementable between 1998 and 2004) provides relief to the traffic congestion resulting from immense growth in the County's tourist population as well as permanent residents. The current road infrastructure does not accommodate a community with a fluctuating population of 250,000 to 750,000 people daily, and therefore results in significant delays, congestion, frustration, fuel consumption, and safety problems, as well as hurricane evacuation concerns.

The revised County RIDE Project for which funding is being requested by Horry County from the South Carolina Transportation Infrastructure Bank includes (refer to Figure 1):

- **Conway Bypass** - A fully controlled access facility from U.S. 17 [the bridge at Briarcliffe complete with interchange at U.S. 17] to U.S. 501 between Aynor and Conway. The facility will consist of six-lane fill/bridging/paving between U.S. 17 and Carolina Bays Parkway, four-lane fill/bridging/paving between Carolina Bays Parkway and S.C. 90, two-lane fill/bridging/paving between S.C. 90 and U.S. 501, with diamond interchanges at U.S. 501, S.C. 319, U.S. 701, S.C. 905, and S.C. 90. The cost includes the purchase of right-of-way as originally designed by the South Carolina Department of Transportation.

REVISED HORRY COUNTY RIDE PROJECT



11/24/97

Figure 1

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- **Carolina Bays Parkway** - A fully controlled access facility, six-lane fill/six-lane bridging/four-lane paving from S.C. 9 to U.S. 501, including the Central Parkway connector crossing the Atlantic Intracoastal Waterway to U.S. 17 Bypass [four-lane fill/four-lane bridging/two-lane paving]. The cost includes the purchase of right-of-way as originally designed by the South Carolina Department of Transportation.

- **S.C. 544** - Five lanes from the U.S. 17 Bypass to U.S. 501.

The remainder of the County RIDE Project includes a series of interconnected highway construction and Road enhancements that will improve the overall transportation network in Horry County includes (refer to Figure 2):

- S.C. 544 - Five lanes from the Socastee Bridge to U.S. 501. The portion of this project required by Horry County to bring this project to completion above and beyond the commitment by the South Carolina Transportation Infrastructure Bank.

- **U.S. 501** - Frontage road system between the Atlantic Intracoastal Waterway and Forestbrook Road, intersection improvements between Forestbrook Road and the Waccamaw River, and an overpass at George Bishop Boulevard/River Oaks Drive.

- **Central Parkway** - Four lanes from the Central Parkway connector (between 48th Avenue North and 62nd Avenue North) to Harrelson Boulevard (in the vicinity of the Myrtle Beach International Airport).

- **Fantasy Harbour Bridge Interchange** - Four-lane bridge/interchange that will create the final leg of what is to be called the Metropolitan Loop, which includes Central Parkway, George Bishop Boulevard, and River Oaks Drive and Extension.

- **Conway Perimeter Road** -Four lanes from U.S. 501 on the west side of Conway to U.S. 378).

- **Intersection/Interchange Improvements** - Along S.C. 90 between Conway Bypass and S.C. 9, S-31, S-66, and U.S. 17 Bypass.

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HORRY COUNTY'S PORTION OF RIDE PROJECT

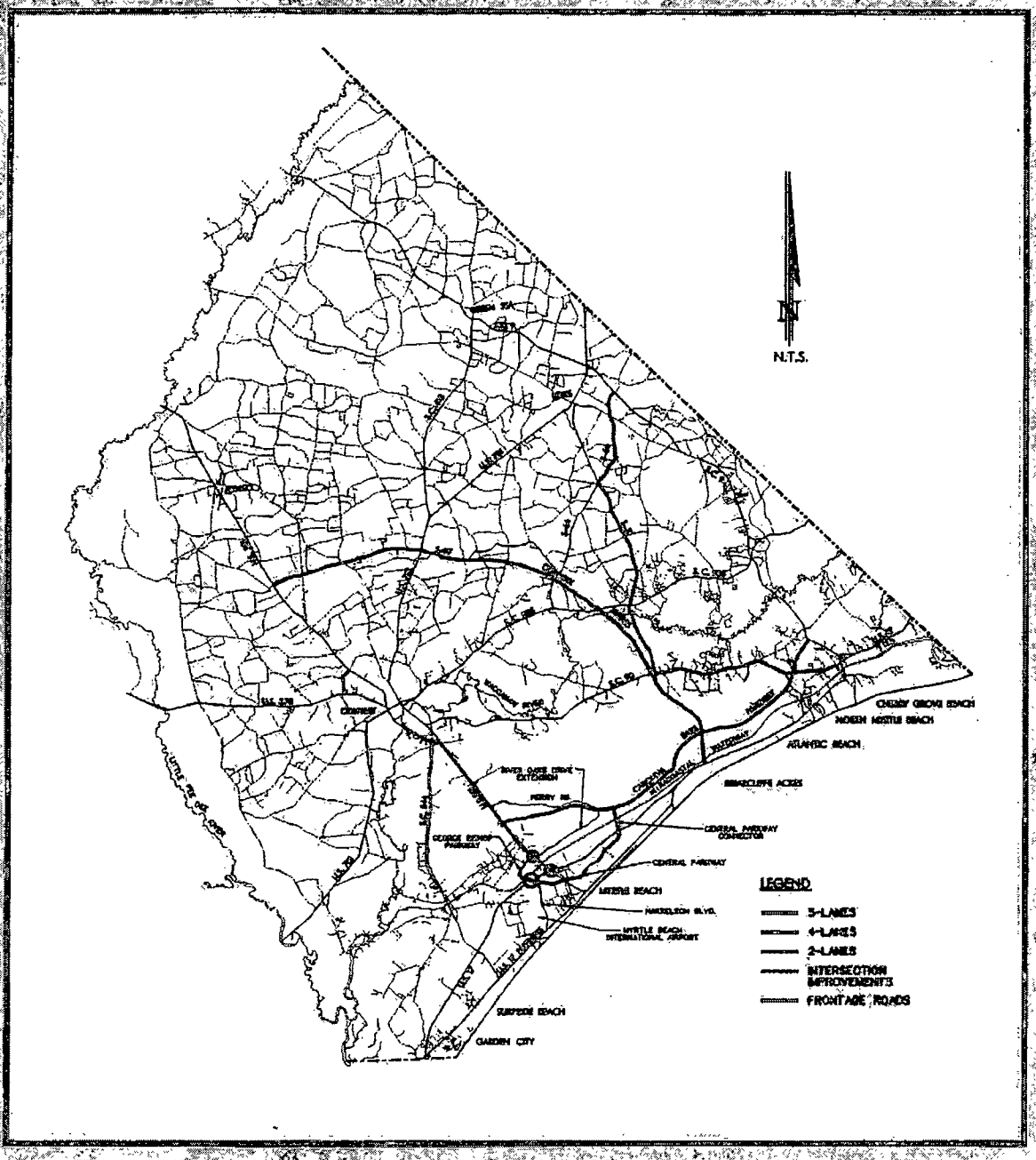

Figure 2

11/24/97

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PUBLIC BENEFITS

Refer to the original application submitted to the South Carolina Transportation Infrastructure Bank on October 15, 1997.

FINANCIAL PLAN

Horry County enacted an ordinance in the fall of 1996 that implemented a 1.5-percent hospitality fee (accommodations, restaurants, amusements, golf, and theaters) effective January 1, 1997 (refer to Appendix B for copies of the Ordinances). The purpose of this fee is to provide the financial ability for Horry County to partner with the State of South Carolina to meet the infrastructure needs of the County. The total cost of the revised County RIDE Project is $545 million (1997 dollars, which escalates to approximately $593 million over the seven year construction period, refer to Table 1). The anticipated cash requirements for the revised County RIDE Project is provided in Column 2 on Table 2. The total debt service over the life of the proposed bonds for the County RIDE Project is $864.6 million, as shown in Column 4 on Table 2. Horry County's contribution to retire the debt is $300 million, outlined in Column 5 of Table 2. Horry County is requesting that the South Carolina Transportation Infrastructure Bank fund the balance of the debt service, $564.6 million as outlined in Column 6 of Table 2.

The projected financial plan includes the following assumptions:

- Local revenues are increased by a combined growth and inflation rate of 6.5 percent per year;
- Construction inflation is projected at 4.5 percent per year using 1997 dollars as the base (except for the Conway Bypass which has been negotiated between Fluor Daniel and South Carolina Department of Transportation); and,
- Twenty-year bonds were utilized with 5.5 percent interest rates.

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Table 1
REVISED HORRY COUNTY RIDE PROJECT
COST TIMELINE

FACILITY	ESTIMATED COST (1997)	CONSTRUCTION TIMETABLE 1998	1999	2000	2001	2002	2003	2004	TOTAL
Conway Bypass (1997 costs provided by Fluor Daniel 9/16/97, revised 11/18/97)	$291,300,000	$54,800,000	$159,800,000	$76,700,000	$0	$0	$0	$0	$291,300,000
Carolina Bays Parkway (1997 costs provided by LPA/WSA 9/30/97)									
S.C. 9 to Conway Bypass (6/6/4)	$69,600,000	$3,252,282		$7,806,672	$67,555,796				$78,614,750
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$13,000,000	$780,000				$14,530,720			$15,310,720
Conway Bypass to Central Parkway (6/6/4)	$38,800,000	$1,937,809		$1,597,633		$42,214,193			$45,749,635
Central Parkway Connector (4/4/2)	$28,900,000	$1,473,602		$570,583			$33,527,152		$35,571,337
Central Parkway to Carolina Forest Boulevard (6/6/4)	$0								$0
Central Parkway to U.S. 501 (6/6/4)	$65,000,000	$3,072,754		$6,550,294				$72,834,037	$82,457,085
Subtotal	**$215,300,000**	**$10,516,447**	**$0**	**$16,525,181**	**$67,555,796**	**$56,744,913**	**$33,527,152**	**$72,834,037**	**$257,703,526**
S.C. 544 (5-lanes - U.S. 17 to Socastee Brjdge)	$7,419,500		$3,709,750	$3,709,750					$7,419,500
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$30,980,500		$3,909,450	$14,298,812		$18,531,349			$36,739,610
TOTAL	**$545,000,000**	**$65,316,447**	**$167,419,200**	**$111,233,743**	**$67,555,796**	**$75,276,261**	**$33,527,152**	**$72,834,037**	**$593,162,636**
Bond Issue Amounts:		**$65,316,447**	**$167,419,200**	**$111,233,743**	**$67,555,796**	**$75,276,261**	**$33,527,152**	**$24,671,401**	**$545,000,000**
Horry County Additional Funds								**$48,162,636**	
Payment for Each Bond (20 Yr. Bond)		**$5,180,698**	**$13,279,172**	**$8,822,716**	**$5,358,316**	**$5,970,680**	**$2,659,270**	**$1,956,859**	**$43,227,711**

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Table 2
REVISED HORRY COUNTY RIDE PROJECT
DEBT SERVICE SCHEDULE

FISCAL YEAR (7/1-6/30)	SIB BOND AMOUNT REQUIRED*/** (20 Year Term)	ANNUAL BOND DEBT SERVICE AMOUNT	ANNUAL ESTIMATED TOTAL DEBT SERVICE (5.5% for 20 Years)	HORRY COUNTY PORTION OF BOND PAYMENT (Paid to SIB) (35% Contribution Ratio)	STATE PORTION OF BOND PAYMENT**
97/98	$65,316,447	$5,180,698	$5,180,698	$15,000,000	($9,819,302)
98/99	$167,419,200	$13,279,172	$18,459,870	$15,000,000	$3,459,870
99/00	$111,233,743	$8,822,716	$27,282,586	$15,000,000	$12,282,586
00/01	$67,555,796	$5,358,316	$32,640,902	$15,000,000	$17,640,902
01/02	$75,276,261	$5,970,680	$38,611,582	$15,000,000	$23,611,582
02/03	$33,527,152	$2,659,270	$41,270,852	$15,000,000	$26,270,852
03/04	$24,671,401	$1,956,859	$43,227,711	$15,000,000	$28,227,711
04/05			$43,227,711	$15,000,000	$28,227,711
05/06			$43,227,711	$15,000,000	$28,227,711
06/07			$43,227,711	$15,000,000	$28,227,711
07/08			$43,227,711	$15,000,000	$28,227,711
08/09			$43,227,711	$15,000,000	$28,227,711
09/10			$43,227,711	$15,000,000	$28,227,711
10/11			$43,227,711	$15,000,000	$28,227,711
11/12			$43,227,711	$15,000,000	$28,227,711
12/13			$43,227,711	$15,000,000	$28,227,711
13/14			$43,227,711	$15,000,000	$28,227,711
14/15			$43,227,711	$15,000,000	$28,227,711
15/16			$43,227,711	$15,000,000	$28,227,711
16/17			$43,227,711	$15,000,000	$28,227,711
17/18			$38,047,013	$0	$38,047,013
18/19			$24,767,841	$0	$24,767,841
19/20			$15,945,125	$0	$15,945,125
20/21			$10,586,809	$0	$10,586,809
21/22			$4,616,129	$0	$4,616,129
22/23			$1,956,859	$0	$1,956,859
TOTAL	**$545,000,000**	**$43,227,711**	**$864,554,220**	**$300,000,000**	**$564,554,220**

NOTE: Growth Rate + Inflation Rate Assumed: 6.5%

Source of Local Revenue: 1.5% Hospitality Fee

Debt service calculations are based on annual principal plus interest payments paid at the beginning of each year. 20 Year Term Per Bond. Fixed Interest Rate Used: 5.5%.

* Refer to Table 1Cost Timetable.

** The SCDOT Commission has committed $114,000,000 (or equivalent debt service) to the South Carolina Transportation Infrastructure Bank for the Conway Bypass.

The degree of financial risk is very low! Local participation for Horry County is funded by the 1.5-percent hospitality fee, which in Horry County carries approximately the same risk as a sales tax (i.e., very low risk). While this source of County participation is subject to severe weather, economic downturns, etc., the projected revenue collection of the hospitality fee allows a contingency amount to address those situations.

Other contributions include the South Carolina Department of Transportation commitment of $114 million (or equivalent $10 million debt service on $114 million per year) to fund a portion of the Conway Bypass phase of the County RIDE Project. All components of the County RIDE Project have been structured to capture any federal funding that might become available (i.e., appropriate federal regulations and requirements have been and will be followed).

In an effort to reduce maintenance expense and extend the life of the Conway Bypass and Carolina Bays Parkway, the cost of superpaving has been included. This will significantly reduce the routine maintenance effort for the South Carolina Department of Transportation of these primary roads. Horry County will also contribute $100,000 per year for 20 years to the South Carolina Department of Transportation, to be placed in an escrow interest bearing account for use in the resurfacing of the Conway Bypass and Carolina Bays Parkway, as deemed necessary by the South Carolina Department of Transportation. State and local maintenance participation on secondary roads will be defined at the completion of construction of each facility.

Horry County will implement the remainder of the County RIDE Project, with assistance from the South Carolina Department of Transportation in the form of a contract to manage the design, construction, and implementation, as well as bonding. The total cost of the remainder County RIDE Project is $199.4 million ($169.1 million in 1997 dollars, escalated at 4.5 percent per year over the construction period, seven years, refer to Table 3). Horry County's participation in implementing this plan in no way eliminates or reduces any funding that the County would normally receive through the Metropolitan Planning Organization guideshare, other standard revenue sharing plans, or critical needs implemented through normal South Carolina Department of Transportation funding.

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Table 3
HORRY COUNTY'S PORTION OF THE RIDE PROJECT
COST TIMELINE

FACILITY	ESTIMATED COST (1997)	CONSTRUCTION TIMETABLE							
		1998	1999	2000	2001	2002	2003	2004	TOTAL
Central Parkway									
48th Avenue North to 29th Avenue North	$10,868,000		$527,448	$5,799,406	$5,759,865				$12,086,719
21st Avenue North to 10th Avenue North	$5,434,000	$5,678,530							$5,678,530
10th Avenue North to U.S 501	$6,270,000		$301,399	$3,313,948	$3,291,351				$6,906,697
U.S. 501 to Harrelson Boulevard	$6,897,000		$470,936	$2,071,217	$5,142,736				$7,684,889
Subtotal	**$29,469,000**	**$5,678,530**	**$1,299,783**	**$11,184,569**	**$14,193,953**	**$0**	**$0**	**$0**	**$32,356,835**
Fantasy Harbour Bridge Interchange	$12,540,000	$3,135,000	$3,276,075	$3,423,498	$3,577,556				$13,412,129
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)	$13,585,000		$740,939	$6,224,542	$8,091,239				$15,056,720
U.S 17/U.S. 501 Interchange (complete)	$12,853,500		$596,519	$7,112,288	$6,514,133				$14,222,940
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)	$7,837,500			$1,706,043	$17,828,153				$19,534,196
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$23,359,500						$15,210,073	$15,894,526	$31,104,599
SC 90 (intersection improvements between Conway Bypass and S.C. 9)	$4,702,500		$5,135,247.56						$5,135,248
S-31 and S-66 (intersection improvements)	$7,524,000		$8,216,396.10						$8,216,396
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	$42,636,000	$10,659,000	$22,277,310	$11,639,895					$44,576,205
U.S. 501/Carolina Forest Boulevard Interchange	$10,450,000		$11,411,661						$11,411,661
U.S. 501 (acceleration/deceleration lanes)	$4,180,000		$4,368,100						$4,368,100
TOTAL	**$169,137,000**	**$19,472,530**	**$57,322,030**	**$41,310,836**	**$50,205,033**	**$0**	**$15,210,073**	**$15,894,526**	**$199,415,028**

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PROJECT APPROACH

The revised County RIDE Project schedule shown on Figure 3 and Table 4 illustrates that given sufficient funding provided by the South Carolina Transportation Infrastructure Bank, South Carolina Department of Transportation, and Horry County, the revised County RIDE Project will be completed within the time frame indicated. Table 5 accompanies Figure 3 and outlines the factors (necessary steps) required to initiate construction. At this time there are no obstacles (legal issues, lack of support, environmental concerns) anticipated that would deter the implementation of the revised County RIDE Project.

The schedule, project components, and factors necessary to initiate construction for the remainder of the County RIDE Project is outlines in Figure 4 and Tables 6 and 7.

The participating parties of the County RIDE Project are Horry County, the South Carolina Transportation Infrastructure Bank, and the South Carolina Department of Transportation. The role of the South Carolina Transportation Infrastructure Bank is to provide the necessary financing and funding for the County RIDE Project.

It is Horry County's intent to contract with the South Carolina Department of Transportation to manage the design, construction, implementation, and assist in bonding of the County RIDE Project. Horry County, in addition to providing 49 percent of the overall cost of the County RIDE Project, will provide limited oversight to ensure that project schedules are met.

Upon receipt of funding, South Carolina Department of Transportation is responsible for the construction of the County RIDE Project including design, right-of-way, construction, maintenance, etc. South Carolina Department of Transportation is to use its judgement in determining whether a specific phase of the County RIDE Project should be design/build, traditional, or any other methodology of road construction so as to meet the schedule outlined in the County RIDE Project (refer to Figures 3 and 4).

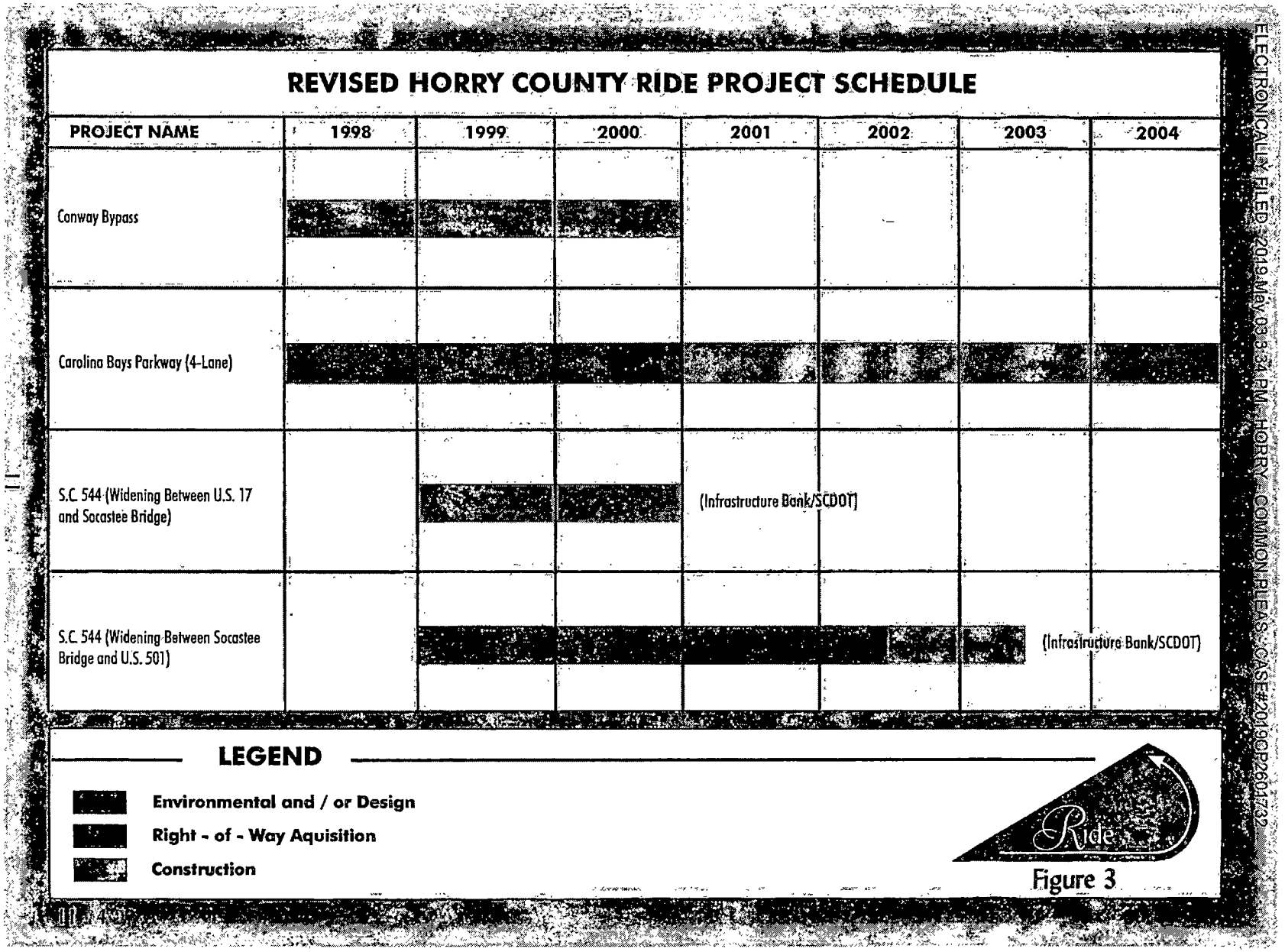

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Table 4
REVISED HORRY COUNTY RIDE PROJECT
PROJECT COST COMPONENTS

FACILITY	ESTIMATED COST (1997)	ENVIRONMENTAL/ ENGINEERING	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION	MAINTENANCE
Conway Bypass (1997 costs provided by Fluor Daniel 9/16/97, revised 11/18/97)	$291,300,000	$0	$6,000,000	$283,000,000	$2,300,000
Carolina Bays Parkway (1997 costs provided by LPA/WSA 9/30/97)					
S.C. 9 to Conway Bypass (6/6/4)	$69,600,000	$3,112,232	$6,840,960	$58,746,808	$900,000
Diamond Interchange (Conway Bypass/Carolina Bays Parkway)	$13,000,000	$910,000	$0	$11,990,000	$100,000
Conway Bypass to Central Parkway (6/6/4)	$38,800,000	$1,854,363	$1,400,000	$35,245,637	$300,000
Central Parkway Connector (4/4/2)	$28,900,000	$1,410,145	$500,000	$26,789,855	$200,000
Central Parkway to Carolina Forest Boulevard (6/6/4)	$0	$0	$0	$0	
Central Parkway to U.S. 501 (6/6/4)	$65,000,000	$2,910,434	$5,710,000	$55,519,566	$800,000
Subtotal	$215,300,000	$10,227,174	$14,480,960	$188,291,866	$2,300,000
S.C. 544 (5-lanes - U.S. 17 to Socastee Bridge)	$7,419,500			$7,419,500	
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$30,980,500	$3,741,100	$13,093,850	$14,870,500	
TOTAL	$545,000,000	$13,968,274	$33,574,810	$493,581,866	$4,600,000

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Table 5
REVISED HORRY COUNTY RIDE PROJECT
CURRENT PROJECT STATUS

FACILITY	ENVIRONMENTAL	PERMITTING	PRELIMINARY DESIGN	FINAL DESIGN	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION
Conway Bypass	complete	complete	complete	underway	underway	initiated
Carolina Bays Parkway	underway	underway				
S.C. 544 (5-lanes - U.S. 17 to Socastee Bridge)	complete	complete	complete	underway	underway	
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)						

HORRY COUNTY RIDE PROJECT SCHEDULE

PROJECT NAME	1998	1999	2000	2001	2002	2003	2004
Central Parkway							
Fantasy Harbour Bridge Interchange							
Conway Perimeter Road							
U.S. 17 / 501 Interchange							
U.S. 501 (George Bishop Overpass)							
S.C. 544 (Widening Between Socastee Bridge and U.S. 501)					(Horry County/SCDOT)		
S.C. 90 Intersection Improvements							
S-31 / S-66 Intersection Improvements							
U.S. 501 (Frontage Road Between Forestbrook Road and AKW)							
U.S. 501 Carolina Forest Boulevard							
U.S. 501 Improvements							

LEGEND

- Environmental and / or Design
- Right - of - Way Aquisition
- Construction

Figure 4

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Table 6
HORRY COUNTY'S PORTION OF THE RIDE PROJECT
PROJECT COST COMPONENTS

FACILITY	ESTIMATED COST (1997)	ENVIRONMENTAL/ ENGINEERING	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION	MAINTENANCE
Central Parkway					
48th Avenue North to 29th Avenue North	$10,868,000	$501,735	$5,110,690	$5,052,575	
21st Avenue North to 10th Avenue North	$5,434,000			$5,434,000	
10th Avenue North to U.S. 501	$6,270,000	$288,420	$3,034,680	$2,946,900	
U.S. 501 to Harrelson Boulevard	$6,897,000	$450,656	$1,896,675	$4,549,669	
Subtotal	**$29,469,000**	**$1,243,811**	**$10,242,045**	**$17,983,144**	**$0**
Fantasy Harbour Bridge Interchange	$12,540,000			$12,540,000	
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)	$13,585,000	$709,033	$5,700,000	$7,175,968	
U.S. 17/U.S. 501 Interchange (complete)	$12,853,500	$570,831	$6,531,250	$5,751,419	
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)	$7,837,500		$1,706,043	$6,131,457	
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)	$23,359,500			$23,359,500	
S.C. 90 (intersection improvements between Conway Bypass and S.C. 9)	$4,702,500	$300,437.50	$1,306,250	$3,095,813	
S-31 and S-66 (intersection improvements)	$7,524,000	$540,787.50	$1,567,500	$5,415,713	
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	$42,636,000	$1,358,500.00		$41,277,500	
U.S. 501/Carolina Forest Boulevard Interchange	$10,450,000	$627,000	$418,000	$9,405,000	
U.S. 501 (acceleration/deceleration lanes)	$4,180,000	$250,800	$522,500	$3,406,700	
TOTAL	**$169,137,000**	**$5,601,200**	**$27,993,588**	**$135,542,212**	**$0**

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Table 7
HORRY COUNTY'S PORTION OF THE RIDE PROJECT
CURRENT PROJECT STATUS

FACILITY	ENVIRONMENTAL	PERMITTING	PRELIMINARY DESIGN	FINAL DESIGN	RIGHT-OF-WAY ACQUISITION	CONSTRUCTION
Central Parkway			underway			
Fantasy Harbour Bridge Interchange						
City of Conway Perimeter Road (U.S. 501 to U.S. 378 with interchanges)						
U.S. 17/U.S. 501 Interchange (complete)						
U.S. 501 Overpass (George Bishop Parkway/River Oaks Drive)						
S.C. 544 (5-lanes - Socastee Bridge to U.S. 501)						
S.C. 90 (intersection improvements between Conway Bypass and S.C. 9)						
S-31 and S-66 (intersection improvements)						
U.S. 501(frontage road system AICW to Forestbrook Road, including interchange at Forestbrook Road)	complete	complete	complete	underway	underway	
U.S. 501/Carolina Forest Boulevard Interchange						
U.S. 501 (acceleration/deceleration lanes)						

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Appendix A

COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)

RESOLUTION NUMBER 224-97

A RESOLUTION REAFFIRMING HORRY COUNTY COUNCIL'S SUPPORT OF BUILDING THE ROADS OUTLINED IN THE "RIDE PLAN" AS APPROVED AND ENDORSED BY ORDINANCE NUMBER 105-96, AND PLEDGING FINANCIAL SUPPORT THROUGH DEDICATION OF REVENUE DERIVED FROM A COUNTY-WIDE HOSPITALITY FEE:

WHEREAS, Horry County Council passed Ordinance Number 105-96 on October 15, 1996, to collect a Hospitality Fee to pay for road construction pursuant to the RIDE Plan; and

WHEREAS, Ordinance Number 105-96 implemented a one and one-half percent Hospitality Fee to be used to provide the county portion of funding for the RIDE Plan; and

WHEREAS, Governor Beasley and SCDOT endorsed the RIDE Plan as the preferred solution to the traffic problems of Horry County; and

WHEREAS, Horry County remains firm on its commitment to the RIDE Plan as the minimum solution to the county's transportation crisis; and

WHEREAS, State funding is being provided through the newly formed State Infrastructure Bank (SIB) allowing for a lesser percentage participation by Horry County; and

WHEREAS, the State Infrastructure Bank has indicated a desire to have a resolution from Horry County Council reaffirming its support of the roads outlined in the RIDE Plan and supporting Horry County's application to the State Infrastructure Bank.

NOW THEREFORE, BE IT RESOLVED BY THE HORRY COUNTY COUNCIL, duly assembled, that the Horry County Council reaffirms its support of the RIDE Plan as presented to and approved by Governor David Beasley in September, 1996, and supports, endorses and approves its amended application to the State Infrastructure Bank to be presented on November 24, 1997.

Dated this 18th day of November, 1997.

HORRY COUNTY COUNCIL

Chandler C. Prosser, Chairman

Ray Skidmore, Jr., District 1

John Kost, District 2

Raymond F. Brown, District 3

Chandler Brigham, District 4

Terry Chambers, District 6

James R. Frazier, District 7

Elizabeth D. Gilland, District 8

Ulysses Dewitt, District 9

Johnny Shelley, District 10

Janice Jordan, District 11

ATTEST:

Rosella H. Carroll, Clerk to Council

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Appendix B

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

ORDINANCE NO. 105-96

AN ORDINANCE IMPOSING A TWO AND ONE-HALF PERCENT HOSPITALITY FEE IMMEDIATELY.

WHEREAS, A plan which offered long-range solutions to this area's road problems failed to pass; and

WHEREAS, The need for road improvement continues and will in all likelihood increase in the future; and

WHEREAS, Considerable time and effort was expended by the Governor's RIDE Committee to establish a new plan and a new timetable; and

WHEREAS, All past efforts to institute a local options sales tax have failed, thus making difficult the possibility of using the largest single revenue generator available; and

WHEREAS, Current law allows local government to levy reasonable and necessary fees to provide needed infrastructure.

NOW THEREFORE, BE IT ORDAINED IN COUNCIL DULY ASSEMBLED,

SECTION 1. (A) **Establishment of Hospitality Fee.** There is established a uniform service charge, hereinafter referred to as the "hospitality fee," equal to one and one-half percent (1.5%) within the geographic confines of Horry County, with an additional hospitality fee equal to one percent (1.0%) within the unincorporated areas of Horry County only. These fees shall be imposed on:

(1) the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code applies;

(2) those paid admissions to places of amusement within the County to which the admissions tax imposed by the State of South Carolina pursuant to Section 12-21-2420, et seq. of the South Carolina Code, applies (golf fees not to begin until 7/1/97); and

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(3) the gross proceeds derived from the sale of food and beverages sold in establishments which primarily have as their business purpose the sale of prepared food for immediate consumption either on or off premises; or maintain licenses for the on-premise consumption of alcohol, beer or wine.

(B) **Payment of the Hospitality Fee.** Payment of the hospitality fee shall be the liability of the consumer of the services described in Section 19-51 subsection (A). The hospitality fee shall be paid at that time of the delivery of services to which the hospitality fee applies, shall b3e collected by the provider of the services,and shall be held in trust by the provider until remitted as provided for herein.

(C) **Collection of the Hospitality Fee.** The hospitality fee imposed by this section is due and payable in monthly installments on or before the twentieth day of each month and every person liable for the fee shall on or before the twentieth day of each month make a true and correct return to the County in such form as it may prescribe and remit the fee therewith. A return is considered to be timely filed if the return is mailed and has a postmark dated on or before the date the return is required to be filed. In case of a failure to make a true and correct return or a failure to file the return, the County shall make a return upon such information as it may be able to obtain, assess the fee due thereon, and add a penalty of ten percent, whereupon the County shall mail notice to the person liable for the fee and, in the case of failure to pay the fee within ten days after the mailing of any such notice, the County shall add an additional penalty of ten percent.

(D) **Inspections and Audits.** For the purpose of enforcing the provisions of this section the County Administrator or other authorized agent of the County, is empowered to enter upon the premises of any person subject to this section and to make inspections, examinations and audits of books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hours written notice. In the event that an audit reveals that false information has been filed by the remitter, the costs of the audit shall be added to the correct amount of fees determined to be due, in addition to the penalties provided in subsection (C). The County Administrator or other authorized agent of the County may make systematic inspection of all businesses within the County, to ensure compliance with this section. Records of inspection shall not be deemed public records.

(E) **Penalties.** (1) It is a violation of this section to:

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(a) fail to collect the hospitality fee;

(b) fail to remit to the County any hospitality fee collected;

(c) fail to file a hospitality fee; return.

(d) knowingly provide false information on a hospitality fee return;

or

(e) fail to provide books and records to the County Administrator or other authorized agent of the County for the purpose of inspection, examination, or audit after twenty-four (24) hours written notice.

(2) Each day this section is violated constitutes a separate offense.

(3) Upon conviction of this section, the violator is guilty of a misdemeanor and subject to a fine or forfeiture not exceeding five hundred dollars or imprisonment not exceeding thirty days, or both.

(F) **Start-up Funds and Administration of Hospitality Fee.** The County Administrator is responsible for the implementation, collection, and enforcement of the hospitality fee and, upon mutual agreement with the County Auditor and County Treasurer, the County Administrator may provide for the implementation, collection, and enforcement of the hospitality fee through the County Auditor and County Treasurer.

(G) **Disposition of Hospitality Fee.** All revenues collected fro the hospitality fee shall be deposited in two separate funds. The funds derived from the one and one-half percent fee shall be deposited into a Road Fund which will be used to implement a comprehensive road plan adopted by the County in concert with the municipalities of the County. The money in this Fund shall be held in escrow until the said comprehensive road plan is finalized and adopted. Interest generated by this fund shall accrue to the fund. The funds derived for the one percent fee shall be deposited in the general fund of the County to offset the cost of public safety and public works services and infrastructure directly impacted by tourism. In the case of either fund, the costs of collecting

the monies may be reimbursed by the fund monies, up to a maximum of one percent (1%).

(H) **Sunset.** The imposition of the one and one-half (1.5%) percent hospitality fee for infrastructure will terminate (a) on 8/1/97 if an appropriate agreement or legislation is not in place fro the State of South Carolina to provide their share of the short term funding plan outlined by RIDE or (b) twenty years from the effective date of this ordinance. Should the one and one-half (1.5%) percent hospitality fee be terminated on 8/1/97, all funds collected will be placed in the general fund of the County and used for services directly impacted by the tourism industry (see G above).

SECTION 2. SEVERABILITY.

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

SECTION 3. CONFLICTING ORDINANCES REPEALED.

All ordinances or parts of ordinances in conflict with the provisions of this ordinances are hereby repealed.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be effective 1/1/97.

FIRST READING: August 6, 1996
SECOND READING: August 20, 1996
THIRD READING: October 15, 1996

ATTEST:
Rosella H. Carroll
Rosella H. Carroll, Clerk to Council

B-5 1995 AGE 841

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HORRY COUNTY COUNCIL

A. Joseph McNutt, Jr., Chairman

Ray Skidmore, Jr., District 1

John Kost, District 2

Raymond J. Brown, District 3

Chandler Brigham, District 4

Chandler C. Prosser, District 5

Terry Chambers, District 6

James R. Frazier, District 7

Elizabeth D. Gilland, District 8

Ulysses Dewitt, District 9

Johnny Shelley, District 10

Janice Jordan. District 11

ATTEST:

Rosella H. Carroll, Clerk to Council

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INCLUDES PROPOSED REVISIONS FOR SECOND READING

STATE OF SOUTH CAROLINA)
) ORDINANCE NO. 7-97
COUNTY OF HORRY)

97 FEB 21 AM 9:52

WHEREAS, the Horry County Council, in meeting duly assembled, enacted Ordinance No. 105-96 on October 15, 1996; and

WHEREAS, County Council deems it appropriate to clarify certain portions of that ordinance; and

WHEREAS, County Council now desires to amend said ordinance in order to provide authority to use the funds collected pursuant to the ordinance for the purpose of matching state and/or federal funds as may be determined by the Horry County Council to be appropriated.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the Horry County Council, in meeting duly assembled, does hereby amend Ordinance No. 105-96 as follows:

SECTION 1.

Section 1. (A)(2) of Ordinance Number 105-96 shall be amended by the deletion of the language contained therein and by the substitution of the following language therefor:

> Those paid admissions to places of amusement within the County to which the admissions tax imposed by the State of South Carolina pursuant to Section 12-21-2420, et seq. of the South Carolina Code, applies; and

SECTION 2.

Section 1.(A)(3) of Ordinance Number 105-96 shall be amended by the deletion of the language contained therein and by the substitution of the following language therefor:

> The gross proceeds derived from the sale of prepared food and beverages sold for immediate consumption either on or off premises; or maintain licenses for the on-premise consumption of alcohol, beer or wine.

SECTION 3.

Section 1. (A)(3)(G) "Disposition of Hospitality" of Ordinance Number 105-96 shall be further amended by the deletion of the language contained therein and by the substitution of the following language therefor:

Disposition of the Hospitality Fee. All revenues collected from the hospitality fee shall be deposited in two separate funds. The funds derived from the one and one-half percent fee shall be deposited into a Road Special Revenue Fund which will be used to implement a comprehensive road plan adopted by the County in concert with the municipalities of the County. The money in this Fund shall be held in escrow until the said comprehensive road plan is finalized and adopted. Interest generated by this Fund shall accrue to the Fund. The funds derived from the one percent fee shall be deposited in a separate Special Revenue Fund of the County to offset the cost of providing public safety and public works services and infrastructure directly impacted by tourism. In the case of either fund, the costs of collecting the monies may be reimbursed by the Fund monies, up to a maximum of one percent (1%).

EXEMPT

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SECTION 4.

Section 1.(A)(3)(H) "Sunset" of Ordinance Number 105-96 shall be further amended by the deletion of the language contained therein and by the substitution of the following language therefor:

Sunset. The imposition of the one and one-half (1.5%) percent hospitality fee for infrastructure will terminate (a) on 8/1/97 if an appropriate agreement or legislation is not in place from the State of South Carolina to provide their share of the short term funding plan outlined by RIDE or (b) twenty years from the effective date of this ordinance. Should the one and one-half (1.5%) percent hospitality fee be terminated on 8/1/97, all funds collected will be placed in the one percent (1%) Special Revenue Fund of the County and used for services directly impacted by the tourism industry (see G above).

SECTION 5. SEVERABILITY

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

SECTION 6. CONFLICTING ORDINANCES REPEALED

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. EFFECTIVE DATE.

This ordinance shall be effective upon its third reading

FIRST READING: 1-7-97 as amended
SECOND READING: 1-21-97
THIRD READING: 2-4-97

ATTEST:
Rosella H. Carroll
Rosella H. Carroll, Clerk to Council

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HORRY COUNTY COUNCIL

A. Joseph McNutt, Jr., Chairman

Ray Skidmore, Jr., District One

John Kost, District Two

Raymond J. Brown, District Three

Chandler Brigham, District Four

Chandler C. Prosser, District Five

Terry Chambers, District Six

James R. Frazier, District Seven

Elizabeth D. Gilland, District Eight

Ulysses Dewitt, District Nine

Johnny Shelley, District Ten

Janice G. Jordan, District Eleven

ATTEST:

Rosella H. Carroll, Clerk to Council

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Exhibit G

COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)

RESOLUTION NUMBER 224-97

A RESOLUTION REAFFIRMING HORRY COUNTY COUNCIL'S SUPPORT OF BUILDING THE ROADS OUTLINED IN THE "RIDE PLAN" AS APPROVED AND ENDORSED BY ORDINANCE NUMBER 105-96, AND PLEDGING FINANCIAL SUPPORT THROUGH DEDICATION OF REVENUE DERIVED FROM A COUNTY-WIDE HOSPITALITY FEE:

WHEREAS, Horry County Council passed Ordinance Number 105-96 on October 15, 1996, to collect a Hospitality Fee to pay for road construction pursuant to the RIDE Plan; and

WHEREAS, Ordinance Number 105-96 implemented a one and one-half percent Hospitality Fee to be used to provide the county portion of funding for the RIDE Plan; and

WHEREAS, Governor Beasley and SCDOT endorsed the RIDE Plan as the preferred solution to the traffic problems of Horry County; and

WHEREAS, Horry County remains firm on its commitment to the RIDE Plan as the minimum solution to the county's transportation crisis; and

WHEREAS, State funding is being provided through the newly formed State Infrastructure Bank (SIB) allowing for a lesser percentage participation by Horry County; and

WHEREAS, the State Infrastructure Bank has indicated a desire to have a resolution from Horry County Council reaffirming its support of the roads outlined in the RIDE Plan and supporting Horry County's application to the State Infrastructure Bank.

NOW THEREFORE, BE IT RESOLVED BY THE HORRY COUNTY COUNCIL, duly assembled, that the Horry County Council reaffirms its support of the RIDE Plan as presented to and approved by Governor David Beasley in September, 1996, and supports, endorses and approves its amended application to the State Infrastructure Bank to be presented on November 24, 1997.

Dated this 18th day of November, 1997.

HORRY COUNTY COUNCIL

Chandler C. Prosser, Chairman

Ray Skidmore, Jr., District 1

John Kost, District 2

Raymond F. Brown, District 3

Chandler Brigham, District 4

Terry Chambers, District 6

James R. Frazier, District 7

Elizabeth D. Gilland, District 8

Ulysses Hewitt, District 9

Johnny Shelley, District 10

Janice Jordan, District 11

ATTEST:

Rosella H. Carroll, Clerk to Council

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Exhibit H

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COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)

ORDINANCE 93-16

AN ORDINANCE

AMENDING AND RESTATING ORDINANCE NO. 105-96, AS AMENDED, AND ORDINANCE NO. 111-01, AS AMENDED; AND OTHER MATTERS RELATING THERETO, THIS AMENDED AND RESTATED ORDINANCE TO BE KNOWN AS THE HOSPITALITY FEE AND LOCAL ACCOMMODATIONS FEE ORDINANCE.

FINDINGS OF FACT

The County Council of Horry County (the "County Council"), the governing body of Horry County, South Carolina (the "County"), hereby finds and determines:

WHEREAS, County Council, in meeting duly assembled, enacted Ordinance No. 105-96, on October 15, 1996, imposing a Hospitality Fee (as defined therein) in the County pursuant to the terms thereof.

WHEREAS, Ordinance No. 105-96 has been amended previously on four occasions, by Ordinance No. 7-97, Ordinance No. 76-97, Ordinance No. 80-01, and Ordinance No. 11-04 (as amended, the "Hospitality Fee Ordinance").

WHEREAS, County Council, in meeting duly assembled, enacted Ordinance No. 111-01 on February 19, 2002, imposing an accommodations fee at a rate of one-half of one percent (0.5%) throughout the unincorporated areas of the County (the "Local Accommodations Fee").

WHEREAS, the said Ordinance No. 111-01 has been amended previously on one occasion by Ordinance No. 50-04 (as amended, the "Local Accommodations Fee Ordinance").

WHEREAS, the Hospitality Fee is currently imposed at a rate of 1.5% within the bounds of the County and imposed at an additional rate of 1% within the unincorporated area of the County, on the following:

(1) the gross proceeds derived from the rental or charges for any rooms, camp ground spaces, lodgings, or sleeping accommodations furnished to transients by any motel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code applies;

(2) those paid admissions to places of amusement within the County to which the admissions tax imposed by the State of South Carolina pursuant to Section 12-21-2420, et seq. of the South Carolina Code, applies (golf fees not to begin until 7/1/97); and

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(3) the gross proceeds derived from the sale of food and beverages sold in establishments which primarily have as their business purpose the sale of prepared food for immediate consumption either on or off premises; or maintain licenses for the in-premise consumption of alcohol, beer or wine.

(4) The gross proceeds derived from rental companies engaged in the business of renting private passenger motor vehicles to a renter for a consideration within the County. The proceeds derived from the lease or rental of a private passenger motor vehicle supplied to the same person for a period of ninety (90) continuous days are not considered proceeds.

WHEREAS, a "positive majority" of the County Council has determined that in order to best ensure the health, safety and welfare of the its citizens and in order generate additional revenue to better serve the tourists visiting the County, the scope of the Hospitality Fee and the rate of the Hospitality Fee with respect to numbered paragraph (4) immediately above shall be clarified as to scope as set forth herein and increased as to rate to 2.5% within the bounds of the County and that no additional rate shall be imposed solely in the unincorporated area of the County. Such action is taken pursuant to the authority granted the County in the South Carolina Code, specifically Section 6-1-330, without limitation.

WHEREAS, the Local Accommodations Fee is currently imposed in the unincorporated area of the County at a rate of one-half of one percent (0.5%) on:

> the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code applies.

WHEREAS, the receipts of the Hospitality Fee and Local Accommodations Fee (such receipts, the "Fee Revenues") currently provide sources of funding for the purposes set forth in their respective authorizing ordinances.

WHEREAS, County Council finds that receipts from Fee Revenues are currently and shall from this day forward be used exclusively for purposes set forth at Section 6-1-530 and 6-1-730 of the Code of Laws of South Carolina 1976, as amended (the "South Carolina Code").

WHEREAS, County Council has further determined that the condition, availability, location, and capacity of existing transportation infrastructure within and without the County serving tourists, or persons who do not reside in but rather enter temporarily, for reasons of recreation or leisure, the jurisdictional boundaries of the County, present impediments to economic growth and improvement thereof would benefit the health, safety and welfare of the citizens of the County and tourists.

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WHEREAS, of the purposes outlined above, County Council finds that the current and future dedication of all or a portion of the Fee Revenues to defray the costs of designing, constructing, maintaining and operating transportation infrastructure and facilities and infrastructure serving tourists, and providing access to tourist destinations is in the best interest of the County, its citizens, and particularly its tourists.

WHEREAS, County Council finds that the Hospitality Fee and Local Accommodations Fee (each a "Fee" and together the "Fees") are uniform service charges or user fees, viz:

(1) Fee Revenues are used to benefit the payers. County Council finds that in order to purchase the goods and services on which the Hospitality Fee and Local Accommodations Fee are imposed, individuals nearly without exception must travel upon the transportation infrastructure of the County. Improved transportation infrastructure and other facilities and infrastructure benefiting tourists thus directly benefits those obtaining the subject goods and services by facilitating access to points of sale and service, attracting individuals to such points of sale, and enhancing safety. Furthermore, the County has a population of approximately 300,000 and receives approximately 18 million tourists each year, tourists who purchase the goods and services subject to the Hospitality Fee and Local Accommodations Fee and who benefit greatly from transportation infrastructure serving tourist destinations and tourism-related facilities.

(2) Fee Revenues are only used for specific purposes. Fee Revenues do not support the general operations of the County and may only be used for the purposes outlined herein.

(3) Fee Revenues do not exceed the cost of providing the improvements and services funded from Fee Revenues. Estimated annual costs for designing, constructing, maintaining, and operating transportation infrastructure providing access to tourist destinations and tourism-related facilities and infrastructure exceeds annual receipts of the Hospitality Fee currently and is reasonably anticipated to exceed annual receipts on a going forward basis.

(4) The Hospitality Fee and Local Accommodations Fee are uniformly imposed. All persons obtaining goods or services subject to the Hospitality Fee and Local Accommodations Fee pay a uniform rate in the incorporated areas of the County and pay a uniform rate in the unincorporated area of the County.

WHEREAS, the County Council finds that the Hospitality Fee and the rate thereof was authorized and adopted prior to December 31, 1996, remains in force and effect pursuant to the Hospitality Fee Ordinance and Section 6-1-330 of the South Carolina Code, and has not been repealed.

WHEREAS, the County Council finds the portions of the Hospitality Fee described at numbered paragraphs (1) and (3) describing the scope of the Hospitality Fee above and the entirety of the Local Accommodations Fee are currently imposed and authorized in a manner wholly consistent with the fees authorized at Title 6, Chapter 1, Articles 5 and 7.

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WHEREAS, to the extent the rate limitations set forth at Section 6-1-540 and Section 6-1-740 are applicable to the rate of the Hospitality Fee or Local Accommodations Fee, such rates either (i) do not exceed the rates allowed by such sections or (ii) are exempt from such rate limitation by virtue of the date of adoption of the rate level.

WHEREAS, in order to meet the needs of the County as set forth above, the County Council is now minded to amend and restate the Hospitality Fee Ordinance and the Local Accommodations Fee Ordinance to incorporate the findings and determinations above, and provide concurrent authorization, to the extent applicable, for the Hospitality Fee imposed pursuant to the Hospitality Fee Ordinance in accordance with Title 6, Chapter 1, Articles 5 and 7 of the South Carolina Code. In providing such concurrent authorization, the County is in no manner waiving, repealing, or supplanting any existing authorization for the Hospitality Fee.

WHEREAS, the County, through experience in collecting the Fees, and in response to certain legislative developments, seeks to make certain changes in the administration of the collection of the Fees in order to more efficiently and effectively serve the people of the County.

WHEREAS, the County Council has determined to hold a public hearing in connection with the enactment of this Hospitality Fee and Local Accommodations Fee Ordinance.

BE IT ORDAINED BY THE COUNTY COUNCIL OF HORRY COUNTY, SOUTH CAROLINA, AS FOLLOWS:

SECTION I. HOSPITALITY FEE

(A) Establishment and Imposition of Hospitality Fee. There is established a uniform service charge, hereinafter referred to as the "Hospitality Fee," equal to one and one-half percent (1.5%) within the geographic confines of the County, and an additional imposition equal to one percent (1.0%) within the unincorporated areas of the County only, such rates shall apply to and be imposed on:

(1) the gross proceeds derived from the rental or charges for any rooms, camp ground spaces, lodgings, or sleeping accommodations furnished to transients by any motel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code applies;

(2) those paid admissions to places of amusement within the County to which the admissions tax imposed by the State of South Carolina pursuant to Section 12-21-2420, et seq. of the South Carolina Code, applies; and

(3) the gross proceeds derived from the sale of prepared food and beverages sold for immediate consumption either on or off premises; or maintain licenses for the on-premise consumption of alcohol, beer or wine.

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(B) The Hospitality Fee shall be imposed at a rate equal to two and one-half percent (2.5%) within the geographic confines of the County solely with regard to:

(4) The gross proceeds derived from Rental Companies engaged in the business of renting Private Passenger Motor Vehicles to a renter for a consideration within The County. The proceeds derived from the lease or rental of a private passenger motor vehicle supplied to the same person for a period of ninety (90) continuous days are not considered proceeds. "Rental Company" means any individual, firm, partnership or corporation in the business of providing private passenger automobiles to the public under the terms of a rental agreement. "Private Passenger Motor Vehicle" means any private passenger motor vehicle, including passenger vans and mini-vans, that is intended primarily for the transport of persons on public roads and highways.

(C) Payment of the Hospitality Fee: Payment of the Hospitality Fee shall be the liability of the consumer of the services. The Hospitality Fee shall be paid at that time of the delivery of the services to which the Hospitality Fee applies, shall be collected by the provider of the services, and shall be held in trust by the provider until remitted as provided for herein.

(D) Disposition of Hospitality Fee. All revenues collected from the Hospitality Fee shall be deposited or allocated as follows:

(1) The funds derived from the one and one-half percent (1.5%) Hospitality Fee shall be deposited into a Road Special Revenue Fund which will be used to implement a comprehensive road plan adopted by the County in concert with the municipalities of the County. Interest generated by this Road Special Revenue Fund shall accrue to the fund.

(2) The funds derived from the one percent (1%) fee shall be specifically allocated within the County's budget to offset the cost of public safety and public works services and infrastructure directly impacted by tourism.

In the case of disposition of funds, the costs of collecting the monies may be reimbursed by the fund monies, up to a maximum of one percent (1%).

(E) Sunset: The imposition of the one and one-half (1.5%) Hospitality Fee for infrastructure will terminate on January 1, 2022.

(F) Use of Hospitality Fee Revenues. Receipts of the Hospitality Fee shall be expended only for a purpose or purposes identified below:

(1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;

(2) tourism-related cultural, recreational, or historic facilities;

(3) beach access and renourishment;

(4) highways, roads, streets, and bridges providing access to tourist destinations;

(5) advertisements and promotions related to tourism development;

(6) water and sewer infrastructure to serve tourism-related demand; or

(7) operation and maintenance of police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to the forgoing (1) through (6).

SECTION III. LOCAL ACCOMMODATIONS FEE

(A) Establishment and Imposition of a Local Accommodations Fee. There is established a uniform service charge, hereinafter referred to as the "Local Accommodations Fee," equal to one-half of one percent (0.5%) within the geographic confines of the unincorporated areas of the County.

> The Local Accommodations Fee shall be imposed on the gross proceeds derived from the rental or charges for any rooms, camp ground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the County to which the sales tax imposed by the State of South Carolina pursuant to Section 12-36-920 of the South Carolina Code, applies.

(B) Payment of the Local Accommodations Fee. Payment of the Local Accommodations Fee shall be the liability of the transient(s) described in the aforesaid paragraph. The Local Accommodations Fee shall be paid at the time of the delivery of service to which the Local Accommodations Fee applies, shall be collected by the provider of the services, and shall be held in trust by the provider until remitted as provided for herein.

(C) Use of Local Accommodations Fee Revenues. Receipts of the Hospitality Fee shall be expended only for a purpose or purposes identified below:

(1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;

(2) tourism-related cultural, recreational, or historic facilities;

(3) beach access and renourishment, or other tourism-related lands and water access;

(4) highways, roads, streets, and bridges providing access to tourist destinations;

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(5) advertisements and promotions related to tourism development;

(6) water and sewer infrastructure to serve tourism-related demand; or

(7) operation and maintenance of police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to the forgoing (1) through (6).

SECTION IV. FEE COLLECTION AND ADMINISTRATION

(A) Collection of Fees.

(1) Requirement to Make Filing and Payment. Each person liable for any Fee shall (a) make a true and correct return to the County in such form as it may prescribe and (b) remit such Fee therewith.

(2) When Due. Any Fee imposed by this Hospitality Fee and Local Accommodations Fee Ordinance is due and payable:

i. in monthly installments on or before the twentieth (20th) day of each month, or

ii. in thirteen installments payable on or before the twentieth (20th) day following the period covered by the return on sales for the previous reporting period. This payment option requires thirteen payments in each calendar year. For those persons electing to pay in thirteen installments (every four weeks), payments for each period are due on or before the twentieth (20th) day after the conclusion of the four calendar week period for which payment is due.

The return shall be due at the same time the Fee is due and payable.

(3) Manner and Location of Payment. Fee payments shall be made by mail, in-person at facilities designated by the County Administrator, or electronically. County Council, by resolution, may establish mandatory electronic filing for certain classes of payers.

(4) Timely Filing and Payment. A return and the payment due therewith are considered to be timely if (i) the return and payment are mailed and such mailing has a postmark dated on or before the date the return is required to be filed, or (ii) the County actually receives the return and payment (a) at a physical location designated by the County Administrator, or (b) electronically in a manner selected by the County Administrator. The burden of demonstrating the timeliness of the filing and payment and presentation of a

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corroborating proof of mailing or receipt demonstrating the same is the responsibility of the person making payment.

(5) Failure to File Return. In the case of a failure to file the return, the County shall make a return upon such information as it may be able to obtain, assess the Fee due thereon, and assess a late filing penalty (the "Failure to File Penalty") upon the entire Fee then due, whereupon the County shall mail such notice to the person liable for the Fee. Such payment shall be due within ten days of the postmark of such return.

The Failure to File Penalty shall be calculated as

(A x B) x C = the Failure to File Penalty

where "A" represents the amount of the entire then due Fee, "B" represents the daily penalty in percentage terms calculated on the basis of a 10% per month penalty assuming a 30-day month (0.333%), and "C" represents the number of calendar days from the date the filing was due to the date of the filing and payment of the Failure to File Penalty. The amount of the Failure to File Penalty for any period shall not exceed 20% of the Fee due for that period.

(6) Failure to Timely File Return. In the case of late filing of the return, the County shall assess a late filing penalty (the "Late Filing Penalty") upon the entire Fee then due.

The Late Filing Penalty shall be calculated as

(D x E) x F = the Late Filing Penalty

where "D" represents the amount of the entire then due Fee, "E" represents the daily penalty in percentage terms calculated on the basis of a 10% per month penalty assuming a 30-day month (0.333%), and "F" represents the number of calendar days from the date the filing was due to the date of the payment of the Fee, the Late Filing Penalty, and any Late Payment Penalty. The amount of the Late Filing Penalty for any period shall not exceed 20% of the Fee due for that period.

(7) Failure to Pay. In the case of failure to pay the entirety of any Fee when due, the County shall add a late payment penalty (the "Late Payment Penalty").

The Late Payment Penalty shall be calculated as:

(X x Y) x Z = the Late Payment Penalty

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where "X" represents the amount of the entire Fee due for the period in question without regard to any partial payment, "Y" represents the daily penalty in percentage terms calculated on the basis of a 10% per month penalty assuming a 30-day month (0.333%), and "Z" represents the number of calendar days from the date the payment was due to the date of the payment of such Fee, and the Late Payment Penalty. There shall be no limit on the amount of the Late Payment Penalty.

For a given period, a person may be assessed a Failure to File Penalty, or a Late Filing Penalty, but shall not be assessed both.

(B) Inspections and Audit. For the purpose of enforcing the provisions of this Hospitality Fee and Local Accommodations Fee Ordinance, the County Administrator or other authorized agent of the County, is empowered to enter upon the premises of any person subject to this section and to make inspections, examinations, and audits of books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hours written notice. In the event that an audit reveals that false information has been filed by the remitter, the costs of the audit shall be added to the correct amount of any Fees determined to be due, in addition to the penalties provided in subsection (A) above. The County Administrator or other authorized agent of the County may make systematic inspection of all businesses within the County, to ensure compliance with this section. Records of inspection shall not be deemed public records.

(C) Violations.

(1) It is a violation of this section to:

(a) fail to collect any Fee;
(b) fail to remit to the County any Fee collected;
(c) fail to file any Fee return;
(d) knowingly provide false information on any Fee return;
(e) fail to provide books and records to the County Administrator or other authorized agent of the County for the purpose of in inspection, examination, or audit after twenty-four (24) hours written notice.

(2) Each day this section is violated constitutes a separate offence.

(3) Upon conviction of this section, the violator is guilty of a misdemeanor and subject to a fine or forfeiture not exceeding five hundred dollars or imprisonment for not exceeding thirty days, or both.

(D) Administration of Fees. The County Administrator is responsible for the implementation, collection, and enforcement of the Fees through any legally available means as may be available to the County, including, without limitation, the Setoff Debt Collection Act,

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codified at Title 12, Chapter 56 of the South Carolina Code and Governmental Enterprise Accounts Receivable (GEAR), codified at Section 12-4-580 of the South Carolina Code.

(E) Administrative Fee. The costs of collecting the monies may be reimbursed by the fund monies, up to a maximum of one (1%) percent.

SECTION V. FAIRNESS IN LODGING ACT

(A) Findings and Authorization. In order to ensure fair competition in providing accommodations to transients and Tourists, the County finds that additional enforcement authority would be helpful in enforcing the Hospitality Fee and Local Accommodations Fee to support the health, safety and welfare of its residents and Tourists. The County is authorized to implement such authority in light of the concurrent authority of Title 6, Chapter 1, Article 5 provided to portions of the Hospitality Fee by this ordinance, and the plenary authority granted by Title 6, Chapter 1, Article 5 in the Local Hospitality Fee Ordinance, and confirmed hereby.

(B) Implementation. The County hereby implements the provisions of the Fairness in Lodging Act, codified at Title 6, Chapter 1, Article 8 of the South Carolina Code. The County Administrator is hereby directed to provide a certified copy of this Hospitality Fee and Local Accommodations Fee Ordinance to the Director of the South Carolina Department of Revenue (the "Department of Revenue") pursuant to Section 6-1-815(A) of the South Carolina Code.

(C) Data Sharing. The County Administrator is hereby directed to take such action as he finds necessary and desirable to collaborate with the Department of Revenue to use returns and copies of returns and other documents filed with or otherwise available to either the Department of Revenue or the County so that each may share data helpful to both the Department of Revenue and the County in determining possible instances of noncompliance

(D) Notices in Annual Property Tax Notices. There shall be included or caused to be included notices in annual property tax notices for parcels of residential real property assessed for property tax purposes pursuant to Section 12-43-220(e) of the South Carolina Code in such form as the County Administrator finds necessary and desirable. Such notices must provide (1) details of fees imposed pursuant to Title 6, Chapter 1, Article 5 of the South Carolina Code and state sales tax on accommodations required to be paid by persons renting residential real property to tourists in the County and (2) the intention of the County to vigorously to enforce these requirements. Details must include specific information on obtaining additional information with respect to these requirements and the names, addresses, and telephone numbers of the County officials designated by the County Administrator able to answer questions, provide forms, and assist in compliance.

(E) Civil Penalties. In addition to, and separate and apart from, other penalties and interest imposed by this ordinance for failure to comply with the portion of the Hospitality Fee concurrently authorized by Title 6, Chapter 1, Article 5 and the Local Accommodations Fee the County hereby imposes, with respect to a single rental property, a one-time civil penalty for noncompliance for failure to collect and remit the portion of the Hospitality Fee concurrently authorized by Title 6, Chapter 1, Article 5 and the Local Accommodations Fee of not less than five hundred dollars nor more than two thousand dollars for each seven days the property was rented. This additional penalty may not be imposed unless the owner has received the notice provided pursuant to Section V(D) above. For purposes of enforcement and collection, this

penalty is deemed property tax on the rental property pursuant to Section 6-1-820(C), and enforceable in the same manner and to the same extent as County property taxes.

SECTION V. SEVERABILITY

If any Section, Subsection, or Clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining Sections, Subsections and Clauses shall not be affected thereby.

SECTION VI. CONFLICTING ORDINANCES REPEALED

If any Section, Subsection, or Clause of this ordinance shall conflict with any Section, Subsection or Clause of a preceding ordinance of the County, then the preceding Section, Subsection or Clause is hereby repealed and no longer in effect.

SECTION VII. CONCURRENT AUTHORIZATION

The Hospitality Fee Ordinance is hereby amended to add the supplemental and concurrent authorization of Title 6, Chapter 1, Articles 5 and 7, to the Hospitality Fee to the extent applicable. Under no circumstances shall the addition of such concurrent authorization be construed as the imposition of a new fee or tax; such authorization is entirely supplementary and concurrent in nature.

SECTION VIII. EFFECTIVE DATE

This Hospitality Fee and Local Accommodations Fee Ordinance shall become effective immediately upon approval at Third Reading.

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AND IT IS SO ORDAINED, ENACTED AND ORDERED.

Dated this _____ day of _____, 2016.

HORRY COUNTY COUNCIL

_____

Mark Lazarus, Chairman

Harold G. Worley, District 1
Bill Howard, District 2
Jimmy Washington, District 3
Gary Loftus, District 4
Tyler Servant, District 5
Cam Crawford, District 6
Harold Phillips, District 7
Johnny Vaught, District 8
W. Paul Prince, District 9
Jody Prince, District 10
Al Allen, District 11

Attest:

_____
Patricia S. Hartley, Clerk to Council

First Reading: November 1, 2016
Second Reading:
Public Hearing:
Third Reading:

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Exhibit I

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COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)

ORDINANCE 32-17

AN ORDINANCE

AMENDING ORDINANCE NO. 93-16 TO REPEAL THE SUNSET PROVISION APPLICABLE TO THE 1.5% HOSPITALITY FEE, AND OTHER MATTERS RELATED THERETO.

FINDINGS OF FACT

The County Council of Horry County (the "County Council"), the governing body of Horry County, South Carolina (the "County"), hereby finds and determines:

WHEREAS, County Council, in meeting duly assembled, enacted Ordinance No. 93-16, on December 6, 2016, and amended and restated its Hospitality Fee Ordinance and its Local Accommodations Fee Ordinance as a single Hospitality and Local Accommodations Fee Ordinance in order to provide for certain modernizations and to avail the County of certain statutory authorizations related to the administration, collection and enforcement of such fees.

WHEREAS, Section I(E) of such Hospitality and Local Accommodations Fee Ordinance provides that the imposition of the one and one-half percent (1.5%) Hospitality Fee (the "1.5% Hospitality Fee") for infrastructure will terminate on January 1, 2022.

WHEREAS, County Council, upon advice received and after due consideration has determined that the sunset of the 1.5% Hospitality Fee does not serve the interests of the County, its residents, or visiting tourists and that the County faces substantial infrastructure challenges in the coming years that are eligible for funding pursuant to the terms of the Hospitality and Local Accommodations Fee Ordinance and that it is in the bests interests of the County, its citizens, and its visiting tourists, to provide for the continued imposition of the 1.5% Hospitality Fee beyond January 1, 2022, in order to meet such challenges.

BE IT ORDAINED BY THE COUNTY COUNCIL OF HORRY COUNTY, SOUTH CAROLINA, AS FOLLOWS:

SECTION I. CONTINUATION OF 1.5% HOSPITALITY FEE; REMOVAL OF SUNSET

The sunset provision contained at Section I(E) of the Hospitality and Local Accommodations Fee Ordinance providing for the termination of the 1.5% Hospitality Fee on January 1, 2022, and shown below:

(E) Sunset. The imposition of the one and one-half (1.5%) Hospitality Fee for infrastructure will terminate on January 1, 2022.

is hereby repealed and of no further effect. Such 1.5% Hospitality Fee shall continue indefinitely in the absence of further action by County Council pursuant to ordinance.

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SECTION II. SEVERABILITY

If any Section, Subsection, or Clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining Sections, Subsections and Clauses shall not be affected thereby.

SECTION III. CONFLICTING ORDINANCES REPEALED

If any Section, Subsection, or Clause of this ordinance shall conflict with any Section, Subsection or Clause of a preceding ordinance of the County, then the preceding Section, Subsection or Clause is hereby repealed and no longer in effect.

SECTION VIII.EFFECTIVE DATE

This Hospitality Fee and Local Accommodations Fee Ordinance shall become effective immediately upon approval at Third Reading.

AND IT IS SO ORDAINED, ENACTED AND ORDERED this _____ day of _____, 2017.

HORRY COUNTY COUNCIL

_____

Mark Lazarus, Chairman

Harold G. Worley, District 1
Bill Howard, District 2
Dennis DiSabato, District 3
Gary Loftus, District 4
Tyler Servant, District 5
Cam Crawford, District 6
Harold Phillips, District 7
Johnny Vaught, District 8
W. Paul Prince, District 9
Danny Hardee, District 10
Al Allen, District 11

Attest:

_____
Patricia S. Hartley, Clerk to Council

First Reading: April 4, 2017
Second Reading:
Third Reading:

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Exhibit J

Sec. 19-6. - Hospitality fee.

(a) *Establishment and imposition of hospitality fee.* There is established a uniform service charge, hereinafter referred to as the "hospitality fee," equal to one and one-half (1.5) percent within the geographic confines of the county, and an additional imposition equal to one (1) percent within the unincorporated areas of the county only; such rates shall apply to and be imposed on:

(1) The gross proceeds derived from the rental or charges for any rooms, camp ground spaces, lodgings, or sleeping accommodations furnished to transients by any motel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodging, or sleeping accommodations are furnished to transients for a consideration within the county to which the sales tax imposed by the State of South Carolina pursuant to S.C. Code § 12-36-920 applies;

(2) Those paid admissions to places of amusement within the county to which the admissions tax imposed by the State of South Carolina pursuant to S.C. Code § 12-21-2420 et seq. applies; and

(3) The gross proceeds derived from the sale of prepared food and beverages sold for immediate consumption either on or off premises; or maintain licenses for the on-premise consumption of alcohol, beer or wine.

The hospitality fee shall be imposed at a rate equal to two and one-half (2.5) percent within the geographic confines of the county solely with regard to:

(1) The gross proceeds derived from rental companies engaged in the business of renting private passenger motor vehicles to a renter for a consideration within the county. The proceeds derived from the lease or rental of a private passenger motor vehicle supplied to the same person for a period of ninety (90) continuous days are not considered proceeds. "Rental company" means any individual, firm, partnership or corporation in the business of providing private passenger automobiles to the public under the terms of a rental agreement. "Private passenger motor vehicle" means any private passenger motor vehicle, including passenger vans and mini-vans, that is intended primarily for the transport of persons on public roads and highways.

(b) *Payment of the hospitality fee.* Payment of the hospitality fee shall be the liability of the consumer of the services. The hospitality fee shall be paid at that time of the delivery of the services to which the hospitality fee applies, shall be collected by the provider of the services, and shall be held in trust by the provider until remitted as provided for herein.

(c) *Collection of fees.*

(1) *Requirement to make filing and payment.* Each person liable for any fee shall (a) make a true and correct return to the county in such form as it may prescribe and (b) remit

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such fee therewith.

(2) *When due.* Any hospitality fee imposed herein is due and payable:

a. In monthly installments on or before the twentieth day of each month; or

b. In thirteen (13) installments payable on or before the twentieth day following the period covered by the return on sales for the previous reporting period. This payment option requires thirteen (13) payments in each calendar year. For those persons electing to pay in thirteen installments (every four (4) weeks), payments for each period are due on or before the twentieth day after the conclusion of the four-calendar-week period for which payment is due.

The return shall be due at the same time the fee is due and payable.

c. When the twentieth day is a Saturday, Sunday or other day, the county is not open for regular business, the fee is due on the following day the county is open for regular business.

(3) *Manner and location of payment*. Fee payments shall be made by mail, in-person at facilities designated by the county administrator, or electronically. County council, by resolution, may establish mandatory electronic filing for certain classes of payers.

(4) *Timely filing and payment*. A return and the payment due therewith are considered to be timely if (i) the return and payment are mailed and such mailing has a postmark dated on or before the date the return is required to be filed, or (ii) the county actually receives the return and payment (a) at a physical location designated by the county administrator, or (b) electronically in a manner selected by the county administrator. The burden of demonstrating the timeliness of the filing and payment and presentation of a corroborating proof of mailing or receipt demonstrating the same is the responsibility of the person making payment.

(5) *Failure to file return.* In the case of a failure to file the return, the county shall make a return upon such information as it may be able to obtain, assess the fee due thereon, and assess a late filing penalty (the "failure to file penalty") upon the entire fee then due, whereupon the county shall mail such notice to the person liable for the fee. Such payment shall be due within ten (10) days of the postmark of such return.

The failure to file penalty shall be calculated as:

(A x B) x C = the Failure to File Penalty

Where "A" represents the amount of the entire then due fee, "B" represents the daily penalty in percentage terms calculated on the basis of a ten (10) percent per month penalty assuming a thirty-day month (0.333%), and "C" represents the number of

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calendar days from the date the filing was due to the date of the filing and payment of the failure to file penalty. The amount of the failure to file penalty for any period shall not exceed twenty (20) percent of the fee due for that period.

(6) *Failure to timely file return.* In the case of late filing of the return, the county shall assess a late filing penalty (the "late filing penalty") upon the entire fee then due.

The late filing penalty shall be calculated as:

(D x E) x F = the Late Filing Penalty

Where "D" represents the amount of the entire then due fee, "E" represents the daily penalty in percentage terms calculated on the basis of a ten (10) percent per month penalty assuming a thirty-day month (0.333%), and "F" represents the number of calendar days from the date the filing was due to the date of the payment of the fee, the late filing penalty, and any late payment penalty. The amount of the late filing penalty for any period shall not exceed twenty (20) percent of the fee due for that period.

(7) *Failure to pay.* In the case of failure to pay the entirety of any fee when due, the county shall add a late payment penalty (the "late payment penalty").

The late payment penalty shall be calculated as:

(X Y) x Z = the Late Payment Penalty

Where "X" represents the amount of the entire fee due for the period in question less any accepted partial payment, "Y" represents the daily penalty in percentage terms calculated on the basis of a ten (10) percent per month penalty assuming a thirty-day month (0.333%), and "Z" represents the number of calendar days from the date the payment was due to the date of the payment of such fee, and the late payment penalty. There shall be no limit on the amount of the late payment penalty unless fees found to be due under an audit. The failure to pay penalty on fees found to be due under audit shall not exceed twenty-five (25) percent if paid within ten (10) days of the county's assessment, then the failure to pay penalty is not capped on the unpaid fee from the 11th day until the taxes are paid. An underpayment amount created by filing an amended return is subject to the failure to pay penalty for the underpayment amount.

(d) *Inspections and audit.* For the purpose of enforcing the provisions of this hospitality fee and local accommodations fee ordinance, the county administrator or other authorized agent of the county, is empowered to enter upon the premises of any person subject to this section and to make inspections, examinations and audits of books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hours' written notice. In the event that an audit reveals that false information has been filed by the remitter, the costs of the audit

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shall be added to the correct amount of any fees determined to be due, in addition to the penalties provided in subsection (c) above. The county administrator or other authorized agent of the county may make systematic inspection of all businesses within the county, to ensure compliance with this section. Records of inspection shall not be deemed public records.

(e) *Violations.*

(1) It is a violation of this section to:

a. Fail to collect any fee;

b. Fail to remit to the county any fee collected;

c. Fail to file any fee return;

d. Knowingly provide false information on any fee return;

e. Fail to provide books and records to the county administrator or other authorized agent of the county for the purpose of in inspection, examination, or audit after twenty-four (24) hours' written notice.

(2) Each day this section is violated constitutes a separate offense.

(3) Upon conviction of this section, the violator is guilty of a misdemeanor and subject to a fine or forfeiture not exceeding five hundred dollars ($500.00) or imprisonment for not exceeding thirty (30) days, or both.

(f) *Administration of fees.* The county administrator is responsible for the implementation, collection, and enforcement of the fees through any legally available means as may be available to the county, including, without limitation, the Setoff Debt Collection Act, codified at Title 12, Chapter 56 of the South Carolina Code and Governmental Enterprise Accounts Receivable (GEAR), codified at S.C. Code § 12-4-580.

(g) *Administrative fee.* The costs of collecting the monies may be reimbursed by the fund monies, up to a maximum of one (1) percent.

(h) *Disposition of hospitality fee* . All revenues collected from the hospitality fee shall be deposited or allocated as follows:

(1) The funds derived from the one and one-half (1.5) percent hospitality fee shall be deposited into a road special revenue fund which will be used to implement a comprehensive road plan adopted by the county in concert with the municipalities of the county. Interest generated by this road special revenue fund shall accrue to the fund.

(2) The funds derived from the one (1) percent fee shall be specifically allocated within the county's budget to offset the cost of public safety and public works services and infrastructure directly impacted by tourism.

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In the case of disposition of funds, the costs of collecting the monies may be reimbursed by the fund monies, up to a maximum of one (1) percent.

(i) *Penalty waiver.*

(1) A penalty may be waived by the county administrator or his designee if the delay or failure to file or pay was caused by reliance on erroneous written or oral advice given by a county employee to the licensee or fee remitter, if accurate and complete facts were given to the employee, there is no change in law, and the licensee or fee remitter provides supporting documentation, such as a copy of the licensee or fee remitter's question to the employee and the advice provided by the employee. A penalty will not be waived if the advice was oral, unless the employee verifies that all the facts were provided and that he gave the advice.

(2) The county administrator or his designee may waive a penalty that is de minimis in nature.

(j) *Use of hospitality fee revenues*. Receipts of the hospitality fee shall be expended only for a purpose or purposes identified below:

(1) Tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;

(2) Tourism-related cultural, recreational, or historic facilities;

(3) Beach access and renourishment;

(4) Highways, roads, streets, and bridges providing access to tourist destinations;

(5) Advertisements and promotions related to tourism development;

(6) Water and sewer infrastructure to serve tourism-related demand; or

(7) Operation and maintenance of police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to the forgoing (1) through (6).

(k) *Amnesty period.*

(1) In order to encourage the voluntary disclosure and payment of fees owed to the county, the county council finds it desirable to allow the county to designate an amnesty period which has a beginning and ending date from time to time as determined by a resolution of county council. During the amnesty period, the county shall waive the penalties and interest or portion of them at its discretion imposed pursuant to Chapter 12.5—Licenses and Business Regulations and 19.6—Hospitality Fee for a licensee or fee remitter who voluntarily files delinquent returns and pays all fees owed. If the county establishes an amnesty period pursuant to this section, it must adopt a resolution of the amnesty period at least sixty (60) days before the commencement of the amnesty period.

(2) The county shall grant amnesty to a licensee or fee remitter who files a request for an

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amnesty form and:

a. Voluntarily files a current license or fee return and pays in full all fees due;

b. Voluntarily files an amended license or fee return to correct an incorrect or insufficient original return and pays all fees due; or

c. Voluntarily pays in full all previously assessed fee liabilities due within an extended amnesty period which begins at the close of the amnesty period and runs for a period of time as determined by the county. The administrator or his designee may set up installment agreements as long as all fees are paid within this period. An installment agreement must be agreed upon before the close of the amnesty period established.

(3) The county shall not waive penalties and interest attributable to any one filing period if the licensee or fee remitter has outstanding liabilities for other periods.

(4) A licensee or fee remitter that is currently under audit by the county is not eligible for amnesty for those periods being audited.

(5) The county may review all cases in which amnesty has been granted and may on the basis of mutual mistake of fact, fraud, or misrepresentation rescind the grant of amnesty. A licensee or fee remitter who files false or fraudulent returns or attempts in any manner to defeat or evade a fee under the amnesty program is subject to applicable civil penalties, interest, and criminal prosecution.

(Ord. No. 105-96, § 1, 10-15-96; Ord. No. 7-97, §§ 1—4, 2-4-97; Ord. No. 76-97, §§ 1, 2, 8-5-97; Ord. No. 80-01, § 1, 6-19-01; Ord. No. 93-16, §§ I, IV, 12-6-16; Ord. No. 24-18, §§ 1—3, 5, 4-3-18)

Editor's note— Ord. No. 105-96, adopted Oct. 15, 1996, did not specifically amend the Code; hence, codification of § 1 of said ordinance as § 19-6 was at the discretion of the editor.

Cross reference— Roads and bridges, Ch. 16.

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Exhibit K

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COUNTY OF HORRY)
) RESOLUTION R-82-18
STATE OF SOUTH CAROLINA)

A RESOLUTION DEDICATING $30,000,000 OF THE HOSPITALITY FEE ANNUALLY TO CONSTRUCT THE HORRY COUNTY SECTION OF I-73.

WHEREAS, in 1996, Horry County Council established a 1.5% hospitality fee on prepared food, admissions, and rentals in the entirety of Horry County for the purpose of implementing a comprehensive road management plan as codified in Section 19-6 of the Horry County Code of Ordinances; and

WHEREAS, the 1.5% hospitality fee was scheduled to lapse upon the repayment of all outstanding loans due to the State Transportation Infrastructure Bank; and

WHEREAS, Horry County Council passed Ordinance 93-16 and Ordinance 32-17 to modernize the administration of the 1.5% hospitality fee and to extend its imposition following the repayment of loans due to the State Transportation Infrastructure Bank; and

WHEREAS, it is anticipated all funds necessary to repay the outstanding State Transportation Infrastructure Bank loans will be on deposit in the State Treasurer's Office by the end of Fiscal Year 2019; and

WHEREAS, upon repayment of the outstanding State Transportation Infrastructure Bank loans, Horry County Council seeks to dedicate the 1.5% hospitality fee for the continued development of major road projects within Horry County consistent with Section 19-6(h) of the Horry County Code of Ordinances; and

WHEREAS, Horry County Council seeks the development of interstate connections to the Grand Strand and the construction of I-73. I-73 is anticipated to provide significant economic benefit, as well as a faster evacuation route in the event of a catastrophic hurricane affecting the Myrtle Beach area; and

WHEREAS, Horry County Council seeks to dedicate a portion of the 1.5% hospitality fee to facilitate the construction of the Horry County portion of I-73.

NOW, THEREFORE, BE IT RESOLVED, that the Horry County Council dedicates $30,000,000 annually of the 1.5% Hospitality Fee to construct the Horry County segments of I-73.

AND IT IS SO RESOLVED this ___ day of _____, 2018.

HORRY COUNTY COUNCIL

_____
Mark Lazarus, Chairman

Harold G. Worley, District 1
Bill Howard, District 2
Dennis DiSabato, District 3
Gary Loftus, District 4
Tyler Servant, District 5
Cam Crawford, District 6
Harold Phillips, District 7
Johnny Vaught, District 8
W. Paul Prince, District 9
Danny Hardee, District 10
Al Allen, District 11

Attest:

_____
Patricia S. Hartley, Clerk to Council