



ALAN WILSON
ATTORNEY GENERAL

October 25, 2021

The Honorable Kent M. Williams
Member
South Carolina Senate
District No. 30
P.O. Box 142
Columbia, SC 29202

Dear Senator Williams:

Attorney General Alan Wilson has referred your letter to the Opinions section. Your letter states the following:

A question has arisen in Marion County concerning whether the county can use C-Funds to pave an existing roadway that connects the Marion County Administration building with US Highway 76.

Marion County renovated an old Walmart several years ago to provide a 'one stop shop' for residents to access county services. There is an existing roadway that is used by the county during drive-through programs and other similar events. The roadway is a public road that is not used for ingress and egress to private businesses and it is not a parking lot that is used for the benefit of private business. This is the roadway that the county would like to pave. I have attached a map that reflects where the existing roadway is located.

Is the county statutorily authorized to use C-Funds to pave the roadway?

Law/Analysis

It is this Office's opinion that the South Carolina Code of Laws requires that the user fee on gasoline, or "C" funds, must be "approved by and used in furtherance of a countywide transportation plan adopted by a county transportation committee." S.C. Code § 12-28-2740(B). A prior opinion of this Office addressed a similar proposal by Chester County to use C funds "to pave the ingress, egress and parking areas of [several fire departments.]" Op. S.C. Att'y Gen.,

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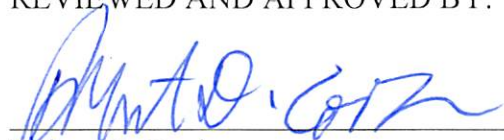
2016 WL 7177426 (November 18, 2016). Therein we stated, “[I]t is this Office's opinion that it is the nature of the project's nexus to transportation which is determinative rather than the ownership of the property for determining the appropriateness of expending “C” funds under Section 12-28-2740.” Id. at 3. As described in the request letter, a court would likely find paving the subject roadway serves a public purpose and would therefore be a permissible use of public funds. Elliott v. McNair, 250 S.C. 75, 156 S.E.2d 421 (1967); S.C. Const. art. X, § 5. However, the use of “C” funds on a project must benefit a countywide transportation plan. Whether a particular project furthers a countywide transportation plan is a factual determination that only a court can decide. See Op. S.C. Att’y Gen., 2006 WL 1207271 (April 4, 2006) (“Because this Office does not have the authority of a court or other fact-finding body, we are not able to adjudicate or investigate factual questions”).

Sincerely,



Matthew Houck
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General