

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 843-720-5270

525 EAST BAY STREET, SUITE 200
CHARLESTON, SC 29403-6655

Facsimile 843-414-7039

January 15, 2021

VIA E-MAIL AND U.S. MAIL

Emily Lawton
Division Administrator
Federal Highway Administration
1835 Assembly Street, Suite 1270
Columbia, SC 29201
emily.lawton@dot.gov

Joy Riley
Project Manager
S.C. Department of Transportation
955 Park Street
P.O. Box 191
Columbia, SC 29201
rileyj@scdot.org

Richard Darden
Project Manager
U.S. Army Corps of Engineers
Attn: Regulatory Division
69A Hagood Avenue
Charleston, SC 29403
Richard.L.Darden@usace.army.mil

Re: P/N SAC-2019-00593 I-526 West Lowcountry Corridor Improvements Project – Draft Environmental Impact Statement, 404 Application, and Significant Issues

Dear Ms. Lawton, Ms. Riley, and Mr. Darden:

On behalf of the South Carolina Coastal Conservation League and Charleston Moves, the Southern Environmental Law Center submits these comments on the draft environmental impact statement (“DEIS”) for the I-526 WEST Lowcountry Corridor Project (“LCC WEST project”). These comments supplement previous comments submitted to the South Carolina Department of Transportation (“SCDOT”) and the Federal Highway Administration (“FHWA”) on January 31, 2020.

Additionally, these comments are responsive to the above referenced joint public notice (“JPN”) issued by the Charleston District of the U.S. Army Corps of Engineers (the “Corps”) and the South Carolina Department of Health and Environmental Control (“DHEC”) on October 30, 2020. SCDOT has applied to the Corps for a Clean Water Act (“CWA”) Section 404 permit to fill wetlands and streams, and to DHEC for a Section 401 Water Quality Certification and a Coastal Zone Consistency Certification for the LCC WEST project.

I. Background

The I-526/I-26 interchange and I-526 mainline link major population and employment centers in the Charleston region, including Summerville, downtown Charleston, Mount Pleasant, and West Ashley. According to SCDOT, the LCC WEST corridor ranks as one of the most congested interstate segments in South Carolina, which is expected to continue given strong population and employment growth in the region. The agency has therefore recommended to widen I-526 from four to eight lanes from Paul Cantrell Boulevard to I-26 and to make improvements at the I-26/I-526 interchange as well as other interchanges along I-526. In reaching this recommendation, SCDOT screened out a host of preliminary alternatives without detailed analysis, including a six-lane widening, transportation demand management (“TDM”), and mass transit alternatives. As proposed, the LCC WEST recommended preferred alternative would impact nearly 50 acres of wetlands and over 3,000 feet of freshwater streams, require 113 property relocations (including 81 residential displacements and 17 commercial displacements), and cost \$1.43 billion.

II. Traffic Modeling for the LCC WEST Project Biases Roadway Widening over Other Alternatives and Ignores the Long-term Transportation Effects of COVID-19.

As addressed in our previous comments, SCDOT arrived at its recommendation through a process which arbitrarily discounted multimodal and TDM solutions and all but guaranteed that only widening would meet the project purpose and need. This error has not been corrected in the DEIS and, in fact, has only become more pronounced due to the COVID-19 pandemic.

The DEIS relies on an outdated 2013 Corridor Study conducted by SCDOT which analyzed four strategies—TDM, multimodal, traffic operations, and capacity improvements—as potential solutions to congestion on the interstate. DEIS at 22. The study (and, therefore, the DEIS) considered each strategy in *isolation* and eliminated TDM, mass transit, managed lanes, and a six-lane widening as *stand-alone* alternatives. DEIS at 21-22. This framing does not offer a fair comparison of alternatives. SCDOT should have instead evaluated these strategies in *combination* to determine whether a more holistic approach—for example, targeted capacity improvements along with mass transit and managed lanes—could achieve an acceptable level of service, while producing more equitable benefits and reducing harm to surrounding communities and the environment.

The need to reevaluate modeling for the LCC WEST project is all the more pressing in light of the COVID-19 pandemic and its unprecedented, and likely permanent, impacts on transportation. COVID-19 has upended the way Americans do business, ushering in a teleworking trend that is expected to far outlast the pandemic. Many national companies across diverse industries, including Nationwide Insurance¹ and Facebook,² have announced permanent work-from-home plans in the last year, while others are providing flexibility for employees to work in the office fewer days a week or to commute at off-peak times. PwC surveyed 133 executives and 1,200 office workers in November and December 2020 and concluded that “most companies are heading toward a hybrid workplace where a large number of office employees rotate in and out of offices configured for shared spaces.”³ Still, an estimated 18% of U.S. workers are expected to work from home every day post-pandemic, up from the 7% who did beforehand, according to the Transportation Laboratory at the University of Illinois at Chicago.⁴

This trend is also evident locally. In April 2019, the Charleston Regional Development Alliance announced that 18 local business with a total workforce of more than 39,000 had committed to Reboot the Commute, a campaign to reduce traffic congestion by encouraging telecommuting, staggered start times, ridesharing, and mass transit use.⁵ In support of the campaign, the Charleston Center for Business Research determined that, if just 4% of the region’s commuters changed their commuting behavior during peak times, it would be the equivalent of adding one lane along the length of I-526. That initiative received an unexpected shot in the arm in the form of COVID-19. Now, far more than the 18 companies that originally

¹ Tristan Navera, *Nationwide closing some offices in permanent shift to remote work*, Columbus Business First (Apr. 29, 2020), <https://www.bizjournals.com/columbus/news/2020/04/29/nationwide-closing-some-offices-in-permanent-shift.html>.

² Kate Conger, *Facebook Starts Planning for Permanent Remote Workers*, NYTimes (May 21, 2020), <https://www.nytimes.com/2020/05/21/technology/facebook-remote-work-coronavirus.html>.

³ PwC’s US Remote Work Survey (Jan. 12, 2021), <https://www.pwc.com/us/en/library/covid-19/us-remote-work-survey.html>.

⁴ Scott Calvert, *Covid-19 Pandemic Likely Improved Your Commute to Work* (Jan. 3, 2021), <https://www.wsj.com/articles/covid-19-pandemic-likely-improved-your-commute-to-work-11609669801>.

⁵ Charleston Regional Development Alliance, *Business-Led Initiative, Reboot the Commute, Encourages Area Employers to Help Reduce Region’s Traffic Congestion* (Apr. 30, 2019), https://www.crda.org/news/local_news/business-led-initiative-reboot-the-commute-encourages-area-employers-to-help-reduce-regions-traffic-congestion/.

signed onto Reboot the Commute have been forced to transition to remote work. Indeed, a South Carolina Chamber of Commerce survey of more than 4,000 companies found that nearly three-quarters were able to completely or partially migrate their operations online during stay-at-home orders.⁶

The potential impact on transportation planning is immense, as fewer cars on the road, especially during rush hour, translate into less current and future congestion. The DEIS does not account for this teleworking phenomenon at all and instead reads as though the COVID-19 pandemic never even happened. Again relying on the 2013 Corridor Study, the DEIS finds that two TDM strategies—telecommuting/compressed work week and work flex time/staggered work hours—together could achieve a 0.6% traffic reduction potential on I-526. DEIS at 30. This figure is no doubt orders of magnitude higher now than it was in 2013, yet SCDOT has made no apparent effort to update it, calling into question the entire alternatives analysis in the DEIS. Before issuing a final EIS and selecting a preferred alternative, the agency must study the long-term effects of COVID-19 and remote work on this project and consider whether more modest structural improvements, in combination with TDM, mass transit, managed lanes, and other strategies, would meet the purpose and need.

III. SCDOT Has Not Sufficiently Considered Project Alternatives That Would Integrate Multimodal Transportation into I-526.

The National Environmental Policy Act (“NEPA”) directs agencies to prepare “a detailed statement” on alternatives to the proposed federal action. 42 U.S.C. § 4332(C)(iii). This alternatives analysis “is the heart of the environmental impact statement.” 40 C.F.R. § 1502.14.⁷ “Without substantive, comparative environmental impact information regarding other possible courses of action, the ability of an EIS to inform agency deliberation and facilitate public involvement would be greatly degraded.” New Mexico ex rel. Richardson v. Bureau of Land Management, 565 F.3d 683, 708 (10th Cir. 2009). To that end, an EIS must “[r]igorously explore and objectively evaluate all reasonable alternatives,” including “the alternative of no action” and “reasonable alternatives not within the jurisdiction of the lead agency.” 40 C.F.R. § 1502.14. “Reasonable alternatives” include alternatives that, in conjunction, could meet the purpose and need of a project even though, standing alone, they would not. Davis v. Mineta, 302 F.3d 1104,

⁶ S.C. Chamber of Commerce, *accelerateSC COVID-19 Survey* (May 2020), https://www.scchamber.net/sites/default/files/Public_Policy/COVID19/sc_chamber_covid-19_survey_results-_final.pdf.

⁷ Though amended by the recent “Update to the Regulations Implementing the Procedural Provisions of NEPA,” 85 Fed. Reg. 43304 (July 16, 2020), this and other former NEPA regulations should continue to guide review of LCC WEST project since it has been underway for years before the new regulations. The new regulations are also under legal challenge across the country and likely to be invalidated by courts and reversed by the new presidential administration.

1121–22 (10th Cir. 2002). “The ‘existence of a viable but unexamined alternative renders an environmental impact statement inadequate.’” Resources Ltd. v. Robinson, 35 F.3d 1300, 1307 (9th Cir. 1993) (internal citation omitted).

A. *SCDOT should fund and construct bicycle and pedestrian facilities as a core component of the LCC WEST project.*

SCDOT’s failure to thoroughly consider and integrate bicycle and pedestrian (“bike-ped”) facilities into the LCC WEST project is counter to NEPA requirements and to the overwhelming will of Charleston communities. As the DEIS acknowledges, regional transportation plans have long prioritized bike-ped accommodations on I-526. The WalkBike Berkeley-Charleston-Dorchester (“BCD”) plan—developed in 2017 by municipalities, agencies, and stakeholders such as the City of Charleston, the Town of Mount Pleasant, and the City of North Charleston—recommends a shared use path along I-526 (from Paul Cantrell Boulevard to 3,350 feet east of Virginia Avenue) for Phases 1 and 2 of implementation.⁸ The BCD Council of Government (“BCDCOG”) adopted the recommendation in its 2040 Long-Range Transportation Plan (“LRTP”), which contemplates that path construction would coincide with an I-526 roadway project like the proposed widening.⁹ Per the LRTP, this complementary approach would create funding efficiencies by avoiding redundant design and construction. It is important to note that SCDOT participated in development of the WalkBike BCD plan and did not express opposition to the shared use path or indicate that it would be unlawful, unfeasible, or otherwise inadvisable.

Far from just a recreational asset, a shared use path along I-526 has the potential to materially improve connectivity and mobility in the region and thus advance the purpose and need for the LCC WEST project. The BCDCOG’s Regional Transit Framework Plan (“RTFP”) identifies I-526 as having high current and future residential, commercial, and employment densities, as well as a high density of transit-reliant communities. As such, the corridor is identified as a priority transit route. Transit access, complemented by bike-ped accommodations, would offer residents and workers in the area a mobility alternative that would relieve congestion on the interstate highway. Recognizing the bike-ped path’s utility, the BCDCOG, municipalities, and other stakeholders have continuously pushed for its inclusion in the LCC WEST project. In September and October 2020, the BCDCOG (Appendix A) and CHATS Transportation Policy Committee (Appendix B), respectively, adopted resolutions requesting that “SCDOT and FHWA include connected bicycle, pedestrian and public transit infrastructure in the design, funding and installation of both the LCC EAST and WEST projects.” The public has likewise expressed strong support for a bike-ped lane along I-526, including in 11 percent of the most recent public

⁸ WalkBike BCD (2017), Appendix D at 2, 12, <https://www.walkbikebcd.com/>.

⁹ LRTP Chapter 3: Pedestrian and Bicycle Mobility, at 106–08, <https://www.bcdcog.com/transportation/planning/long-range-transportation-plan/>.

comments on the LCC WEST project.

SCDOT has so far disregarded its own fiscal and safety responsibilities to incorporate and install a full bike-ped path into the LCC WEST design. The DEIS states that a shared use path parallel to I-526 would not best accomplish the bike-ped goals identified in the LRTP, including improving connectivity to transit, schools, and population centers and providing a safe, inviting environment for users. DEIS at 64. Therefore, the DEIS concludes, the path is outside the purpose and need for the LCC WEST project. But this determination is suspect for a couple reasons. DEIS at 64. First, the BCDCOG, municipalities, and other stakeholders, *including SCDOT*, studied this shared use path for years and prioritized it in at least two transportation plans, so there is evidently a strong belief that the path *would* serve regional bike-ped goals. Second, the DEIS contains no explanation or data to support elimination of bike-ped facilities on LCC WEST—no traffic modeling, no community surveys, no financial analyses. Instead, the best SCDOT can muster is that its preferred alternative will not impede future bike-ped improvements by local sponsors on adjacent roadways. While we appreciate specific design deference to local agencies, SCDOT must lead on including bike-ped accommodations not only on river crossings, but throughout the corridor and as part of the project cost. This would also best comport with federal aid requirements, which call on States to align their roadway projects “with the goals and objectives of such urban planning as has been promulgated by the [local] community.” 23 U.S.C. § 128(a).

On various occasions, SCDOT’s Project Manager has claimed, without citation, that federal law prohibits bike-ped lanes on interstate highways, except over bridges. This does not appear accurate and also seems aimed at arbitrarily dismissing SCDOT’s responsibility for adjacent infrastructure in the same corridor. In fact, federal law broadly permits States to use federal funding for “construction of pedestrian walkways and bicycle transportation facilities on land adjacent to any highway on the National Highway System.” 23 U.S.C. § 217(b). Such bike-ped facilities are “deemed to be a highway project” eligible for an equivalent federal share payable, so long as they are designed principally for transportation purposes. 23 U.S.C. § 217(f), (i). The USDOT showed further support for including bike-ped facilities in federal-aid projects in a 2010 Policy Statement on Bicycle and Pedestrian Accommodations, Regulations, and Recommendations.¹⁰ The Policy Statement encourages States to “give the same priority to walking and bicycling as is given to other transportation modes,” rather than relegate them to “an afterthought in roadway design,” and to “plan, fund, and implement improvements to their walking and bicycling networks, including linkages to transit.” These strategies, USDOT found, “can help meet goals for cleaner, healthier air” and “place fewer demands on local roads and highways”—a core goal for the LCC WEST project.

¹⁰ USDOT Policy Statement on Bicycle and Pedestrian Accommodation Regulations and Recommendations (2010), https://www.fhwa.dot.gov/environment/bicycle_pedestrian/guidance/policy_accom.cfm.

If no federal restrictions—funding or otherwise—would impede bike-ped infrastructure in the LCC WEST project, then it is unclear why SCDOT will not give due consideration to a shared use path as part of a holistic strategy to relieve congestion on I-526. SCDOT’s resistance is all the more confounding now that it has agreed to build a 14-foot shared use path on the I-526 Ashley River crossing. While a positive design change, this river crossing can only offer a genuine transportation alternative for residents and commuters, and thus materially reduce congestion on I-526, if it connects to a larger bike-ped path along all of LCC WEST (and eventually LCC EAST). Looking forward, a bike-ped linkage will also be needed between I-526 and the Mark Clark Extension, a proposed four-lane parkway which will join with I-526 in West Ashley and extend into Johns Island and James Island. The recommended alternative for the Mark Clark Extension, Alternative G, includes a multi-use path along the entire 9.5-mile length of the roadway.¹¹ Under the current LCC WEST proposal, however, the path would meet a dead end at I-526—yet another missed opportunity to provide efficient bike-ped accessibility across regional population and employment centers.

We are aware that, since publishing the DEIS, SCDOT has met with the BCDCOG, municipalities, and Charleston Moves to solicit local design preferences on a shared use path that would run along, though not directly within and parallel to, LCC WEST, and that SCDOT has committed to incorporating these design preferences into the LCC WEST project in some form. This, too, is a positive development, and we support the decision to allow local governments to select the best path alignments. However, SCDOT maintains that it will not provide funding for the path’s construction. We urge the agency to reconsider this decision. It is clear that this shared use path is within the stated purpose and need for the LCC WEST project—the path would help “reliev[e] traffic congestion and improv[e] operations . . . along the I-526 mainline from Paul Cantrell Boulevard to Virginia Avenue” and provide “[p]edestrian and bicycle connectivity.” DEIS at 6. As noted above, it should qualify as a “highway project” under federal law and therefore be eligible for the same federal share payable as other portions of the LCC WEST project. There is thus no discernible reason—and SCDOT has never given one—to exclude bike-ped facilities from the scope of this project.

B. Multimodal and TDM solutions should not be deferred to an uncertain future date.

As discussed above, the DEIS eliminates nonstructural alternatives such as multimodal transportation and TDM on the basis of outdated and skewed traffic modeling. Even so, SCDOT has stated that the LCC WEST project is the last possible opportunity to widen I-526, and that, if completed, the eight-lane roadway will still be overcapacity at peak hours. Nonstructural solutions are therefore needed to address future congestion, and should be developed in tandem with the proposed widening to ensure compatibility, reduce redundant design and construction,

¹¹ Mark Clark Extension Project Overview, <https://www.scdotmarkclark.com/project-overview>.

and allow for learning and adaptation over time.

In a response to our previous comments on this topic, SCDOT assured in a letter dated April 14, 2020 that the LCC WEST project does not eliminate TDM and multimodal opportunities, but instead

will enhance the effectiveness and allow for further expansion of these measures. Namely, the proposed infrastructure improvements will provide necessary structural, signing, electrical and internet upgrades that will facilitate future operational flexibilities that will enhance telecommuting/compressed work week, flex time, and staggered shift options, transit and carpool/rideshare/vanpool reliable travel times, including the potential to incorporate a regional managed lanes operation. Reliable travel times are critical to the success of these alternative modes of travel.

Given these assurances, we expect SCDOT to take concrete steps now, before completion of the LCC WEST project, to develop and expand TDM and transit options in this system that will take advantage of technological upgrades to I-526.

The DEIS identifies HOT managed lanes, for example, as a strategy which multiple I-526 and I-26 corridor studies have deemed feasible if implemented on both roadways. SCDOT should begin evaluating active lane management strategies and technologies with local agencies for roll-out with an expanded I-526. Mass transit is another area which warrants concerted study and commitments from SCDOT. The DEIS notes that 17% of comments received on the LCC WEST project indicated a desire for transit, with an additional 3% requesting dedicated bus lanes. Regional transportation plans, including the RTFP and LRTP, provide a roadmap for implementing such an express bus service on I-526, while the Lowcountry Rapid Transit Line, the region's largest ever investment in transit, will intersect I-526 at Rivers Avenue with stations proposed at Remount Road and Mall Drive, providing connectivity to a potential bus route along I-526.¹² It is not enough for the LCC WEST project to just include shoulders wide enough to accommodate future bus lanes—SCDOT must demonstrate a commitment to mass transit in the near-term, in line with its letter vowing more effective and expanded transit services.

¹² See <https://lowcountryrapidtransit.com/about.html>.

IV. SCDOT Should Design the Project to Deliver Greater Benefits than Burdens to Environmental Justice Communities by Sufficiently Mitigating Harm

The burden of the LCC WEST project's most significant adverse effects¹³ will be disproportionately felt in communities that qualify as environmental justice ("EJ") communities under NEPA, particularly the Russelldale, Highland Terrace, Liberty Park, and Ferndale neighborhoods. EJ neighborhood relocations account for a whopping 95% of total residential relocations required by this project. As noted in the DEIS, "the anticipated residential relocations and recreational facility displacements are considered to have disproportionately high and adverse effects [on EJ communities], as there are no comparable burdens placed upon other neighborhoods in the broader vicinity of the proposed project." DEIS at 117. Effectively, the communities with more people of color and more poverty are the only ones being asked to sacrifice for the LCC WEST project, as has historically been the case with interstate highways.¹⁴

Per Executive Order 12898, federal agencies must work to achieve environmental justice by addressing disproportionately high environmental and human health effects of their actions on minority and low-income populations. Exec. Order No. 12893, 59 Fed. Reg. 7629 (Feb. 11, 1994). The FHWA recognizes that "EJ is important because it helps to ensure full and fair participation by potentially affected communities in every phase of the transportation decision-making process."¹⁵ The ultimate goal is to develop a transportation project that delivers "an equitable distribution of benefits and burdens" to affected communities.¹⁶ As the Fourth Circuit affirmed last year, "environmental justice is not merely a box to be checked . . ." *Friends of Buckingham v. State Air Pollution Control Bd.*, No. 19-1152, 2020 WL 63295, at *18 (4th Cir. Jan. 7, 2020). To that end, SCDOT and FHWA should carefully consider and address the disproportionate adverse effect the LCC WEST project will have on EJ communities.

¹³ FHWA defines adverse effects to include air, noise, and water pollution and soil contamination; destruction or disruption of human-made or natural resources; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; displacement of persons or businesses; increased traffic congestion, isolation, exclusion, or separation of minority and/or low-income individuals within a given community from the broader community. FHWA EJ Order 6640.23A.

¹⁴ See *Jersey Heights Neighborhood Ass'n v. Glendening*, 174 F.3d 180, 195 (4th Cir. 1999) (King, J., concurring) ("As Justice Douglas pointed out nearly thirty years ago, '[a]s often happens with interstate highways, the route selected was through the poor area of town, not through the area where the politically powerful people live.'" (quoting *Triangle Improvement Council v. Ritchie*, 402 U.S. 497, 502 (1971) (Douglas, J., dissenting))).

¹⁵ *Environmental Justice*, U.S. DEP'T OF TRANSP. FED. HIGHWAY ADMIN., https://www.fhwa.dot.gov/Environment/environmental_justice/ (last visited Jan. 31, 2020).

¹⁶ *Id.*

A. Community background.

The Russelldale, Highland Terrace, Liberty Park, and Ferndale neighborhoods are located in the City of North Charleston in the vicinity of the I-26 and I-526 intersection. DEIS at 91. Many residents in these communities identify as people of color (72-94% of the community populations) and the majority of housing units are rented rather than owned (61-83% of the community populations). DEIS, Appendix G at 3-5. Average home prices in these neighborhoods range from \$22,000 to \$38,000. Approximately 20% of residents located in the Russelldale and Highland Terrace Communities rely upon the Section 8 federal housing program for assistance paying rent. DEIS, Appendix D at 18.

The proposed LCC WEST project would be the third major interstate project to place an undue burden on these communities in recent history. The construction of I-26 in 1969 followed by the addition of I-526 in the late 1980s resulted in permanent damage to community cohesion by forcing 88 residential and 16 commercial displacements and bisecting neighborhoods.¹⁷ During the design and construction of these interstate routes, the communities were largely excluded or marginalized from the process which resulted in the disproportionate destruction of these neighborhoods. DEIS, Appendix D at 1. The DEIS acknowledges that the communities are still dealing with “adverse effects on economic vitality due to unjust compensation from [the] original construction of I-26 and I-526.” DEIS at 116. In the Highland Terrace neighborhood, roads that once connected neighbors still terminate in dead ends at the interstate. In addition to the cumulative effects from past interstate projects, these neighborhoods are grappling with a lack of affordable housing, exposure to flooding, limited access to transit, lack of sidewalks and bike facilities, language barriers, and poverty, among other challenges. DEIS at 102. Redevelopment pressures brought by gentrification and associated increases in property taxes have intensified these problems in recent years.

B. Community mitigation should include significantly more benefits.

The disproportionate effects this project will inflict on EJ communities underscores the need to more earnestly explore less damaging alternatives which may involve a combination of the type of transportation solutions which were only considered in isolation in this analysis (*see* Section II above).¹⁸ If the new LCC WEST interstate project is to move forward with such a disproportionately significant impact to these EJ communities, the mitigation package should be

¹⁷ The DEIS states “[b]y physically separating these neighborhoods, both interstates negatively impacted community cohesion and created a barrier effect that continues to prevent residents from accessing previously walkable recreational facilities, grocery stores and other community amenities.” DEIS, Appendix D at 1.

¹⁸ So far minimization efforts have been able to avoid 21 residential units and two commercial units, however with alternative transportation solutions further minimization may be possible. DEIS at 118.

proportionately significant. The previous interstate projects in this area caused lasting damage and were inadequately mitigated for, at SCDOT's own admission, therefore SCDOT should commit to addressing the direct and cumulative inequities from each of these interstate projects in the current community mitigation plan.

According to SCDOT officials, the mitigation package total value is "in the ballpark of \$30 million"¹⁹ Considering this amount in isolation of the project costs and impacts may make it seem like a significant sum, as it has been portrayed in local media coverage.²⁰ However at \$30 million the mitigation cost is merely 2.5% of the total project cost, whereas the damages felt by the affected families are intergenerational if not properly mitigated. This sum is not sufficient to mitigate for the level of disproportionate damage this project would incur, and which the preceding projects have already incurred, upon these neighborhoods. SCDOT must commit to a more expansive mitigation package to address this inequity.

C. Transportation equity and infrastructure commitments should be addressed in detail in final mitigation plan.

Most detail in the current Community Mitigation Plan draft is devoted to the new Filbin Creek Community Center, which accounts for approximately \$15 million of the mitigation package. The community is generally supportive of the new center and the planned parks and connectivity that will be provided, and the commitment to construct the center prior to LCC WEST construction will ensure that the neighborhoods have uninterrupted access to a community center. Given that the Filbin Creek Community Center is being constructed to replace two community centers that will be demolished with the project, one of which was built as partial mitigation for the original construction of I-526, this new community center serves as mitigation to balance out the loss of the other community centers but does not adequately compensate for the remaining significant impacts these communities will endure as a result of the LCC WEST project. Building the new community center is not creating new offsets for the impacts of this current project, but rather merely ensuring that past mitigation remains in place. Other significant mitigation commitments need to be made and detailed in the Community Mitigation Plan.

¹⁹ Rickey Dennis, *Mitigations for Billion-dollar Road Plan in North Charleston Include Affordable Housing*, Post and Courier (Nov. 6, 2020), https://www.postandcourier.com/news/mitigations-for-billion-dollar-road-plan-in-north-charleston-include-affordable-housing/article_15e154b0-1fa7-11eb-81ce-13c245f811f6.html.

²⁰ See Lillian Donahue, *I-526 West Project Leaders Release Draft Community Plans for Impacted Neighborhoods*, Live 5 News (Oct. 7, 2020), <https://www.live5news.com/2020/10/07/i-west-project-leaders-release-draft-community-plans-impacted-neighborhoods/>.

There is an opportunity to address the area’s transportation equity²¹ needs through this mitigation package, not just the loss of the two community centers. In addition to incorporating bike-ped infrastructure into the overall design of the project to help achieve the LCC WEST project purpose and need, SCDOT should detail bike-ped and mass transit infrastructure improvements in the Community Mitigation Plan in order to achieve transportation equity. The U.S. Census Bureau’s 2017 American Community Survey estimates that 10.1% of North Charleston residents do not have a motor vehicle. In one census tract in the 29405 area code, 42.6% of residents lack vehicle and food access.²² Therefore, many of the citizens who will be forced to relocate due to or live adjacent to an expanded I-526 will derive no benefit from the project without the inclusion of multimodal solutions. The Community Mitigation Plan states intentions to create a Community Infrastructure Enhancement Plan and vaguely encourages the “incorporation of project elements and mitigation measures that support active transportation and increase accessibility through alternate modes of transportation (i.e., improved pedestrian connectivity and better access to transit on Rivers Avenue and improved bike route connectivity through the development of a multi-use path.)” DEIS at 95. However, there is no detail about this suggestion in the Community Mitigation Plan.²³ See DEIS, Appendix H at 12. Additional sidewalks and street lighting within the four EJ communities is not sufficient mitigation on its own; multi-modal access between impacted neighborhoods and to resources and daily needs (i.e. grocery stores, schools) must be accommodated.

D. Housing commitments must be detailed and allow for social cohesion.

To avoid fragmenting neighborhoods, lowering property values, and altogether diminishing residents’ quality of life, SCDOT should seek to minimize property demolition and family and business relocation to the greatest extent possible. For cases where taking property is unavoidable, it is of paramount importance that displaced residents in EJ communities will have the opportunity to relocate *within the same neighborhood* if they desire. SCDOT has preliminarily committed to constructing affordable housing to rehome displaced residents, and it is crucial that this commitment is detailed and includes enough housing units to account for all those affected by displacement from this project.

²¹ As defined in the DEIS, “[t]ransportation equity addresses inequities in the transportation system itself and promotes social equity through improved means of transportation.” DEIS at 94.

²² Economic Research Service Atlas, <https://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas>.

²³ The Community Mitigation Plan similarly claims, without detail, that “project elements and mitigation measures that provide benefits to underserved/underrepresented populations such as elderly and disabled populations by enhancing multimodal transportation options that provide a sense of independence and reduce travel costs” DEIS at 4-95.

V. Impacts to Wetlands, Floodplains, and Other Waters Must Be Appropriately Avoided, Minimized, and Mitigated.

As described in the Corps' JPN, the LCC WEST project would impact 48.3 acres of wetlands and 3,634 linear feet of streams. JPN at 2. As threshold matter, we are concerned that the public comment period for the JPN closed before the public comment period for the DEIS concluded and any public feedback was accounted for in the project design. This premature JPN comment period deadline precludes the public from commenting on any alterations to the LCC WEST project generated by the DEIS comments. The JPN also lacks crucial information such as the location of the mitigation bank proposed to fulfill the wetland and stream credits needed for this project. This information gap prevents the public from meaningfully commenting on the JPN.

Additionally, it is unclear why the wetland and stream impact footprint reported in the JPN is significantly smaller than the "ROW Impact Type" footprint for the recommended preferred alternative in the DEIS. Calculations in the DEIS show that the recommended preferred alternative would incur 120 acres of wetland impacts (97.7 freshwater and 22 acres of critical area) and 18,631 linear feet of stream impacts. DEIS at 157, Table 4.16. We request clarification on these discrepancies.

A. Ensure the Least Damaging Practicable Alternative is selected.

As proposed, the project will have significant wetland impacts; therefore, this project must comply with the Clean Water Act Section 404(b)(1) Guidelines (the "Guidelines"). 33 C.F.R. § 320.4(a)(1). The Guidelines provide significant protection to wetlands, and the degradation or destruction of wetlands "is considered to be among the most severe environmental impacts covered by these Guidelines." 40 C.F.R. § 230.1(d). The Guidelines state that the Corps may not permit a discharge of dredged or fill material if there is a less damaging "practicable alternative," or if the discharge will "cause or contribute to significant degradation" of waters of the United States. *Id.* § 230.10.

In applying the practicable alternative standard, the Corps must consider the project's "basic purpose." *See id.* § 230.10(a)(3). If the project's basic purpose is not water dependent, the Guidelines apply a presumption that a practicable alternative with less adverse environmental impact on wetlands exists. *Id.* SCDOT's stated project purpose "to increase capacity and improve operations at the I-26/I-526 interchange and along the I-526 mainline, with the overall goal of relieving traffic congestion" is clearly not water dependent. JPN at 2. An alternative "is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose." *Id.* § 230.10(a)(2). Where a discharge is proposed for a wetland or other special aquatic site, all practicable alternatives to the proposed discharge that do not involve a discharge to the wetland "are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise." *Id.*

§ 230.10(a)(3). The burden is on SCDOT to rebut the presumption by “clearly demonstrat[ing]” that a less damaging practicable alternative is not available. *See id.*

SCDOT is required to take all appropriate and practicable steps to avoid and minimize adverse impacts to waters of the United States. *See* 40 C.F.R. § 230.91(c)(2). In this early project stage, it is crucial that the SCDOT evaluate all possible alternatives that would further avoid and minimize impacts to wetlands, including alternative alignments and multimodal transportation solutions.

Given the significant public benefits wetlands provide, SCDOT must avoid wetland impacts to the greatest extent possible in order to comply with the Corps’ public interest test.²⁴ Coastal wetland systems, such as those that this project will fill, provide important wave buffering and flood retention services for coastal communities and should be protected to maintain these hazard mitigation services.²⁵ An assessment following Hurricane Sandy found that coastal wetlands helped affected states avoid \$625 million in direct damages during the storm.²⁶ The Houston area lost 4 billion gallons worth of flood retention after losing 5.5 percent of its freshwater wetlands between 1992 and 2010.²⁷ Charleston’s Church Creek basin lost 24 percent of its wetland area from 1996 to 2010, and the community’s flooding woes became a recurrent problem over that time period. Maintaining existing wetlands so that they continue to provide natural flood storage and storm buffering helps avoid taxpayer-funded flood control projects in the future. In light of the stronger storms and sea level rise the South Carolina coast is already experiencing due to climate change, it is crucial to preserve wetlands and their services to the greatest extent possible.²⁸

²⁴ The Corps must evaluate whether proposals for Section 404 permits comply with the public interest test, which is based on probable impacts, including cumulative impacts, to safety, wetlands, flood hazards, floodplain values, land use, and the needs and welfare of the people, among other considerations. *See* 33 C.F.R. § 320.4(a)(1).

²⁵ *See* W.J. Mitsch et al., *Ecosystem services of wetlands*, 11 INT’L J. OF BIODIVERSITY SCI., ECOSYSTEM SERVS. & MGMT., no. 1, at 1–4 (2015), <https://www.tandfonline.com/doi/full/10.1080/21513732.2015.1006250?scroll=top&needAccess=true>; A. Bullock & M. Acreman, *The role of wetlands in the hydrological cycle*, HYDROLOGY AND EARTH SYS. SCI., no. 3, at 358–89 (2003), <https://hal.archives-ouvertes.fr/hal-00304786/document>; M. Acreman & J. Holden, *How wetlands affect floods*, 33 WETLANDS, no. 5, at 773–86 (2013), <https://link.springer.com/article/10.1007/s13157-013-0473-2>.

²⁶ S. Narayan et al., *The value of coastal wetlands for flood damage reduction in the Northeastern USA*, SCIENTIFIC REPORTS, at 1 (2017), <https://www.nature.com/articles/s41598-017-09269-z>.

²⁷ J.S. Jacob et al., *Houston area freshwater wetland loss, 1992-2010*, (2015), <http://tcwp.tamu.edu/files/2015/06/WetlandLossPub.pdf>.

²⁸ U.S. Global Change Research Program, *Precipitation Change in the United States*, CLIMATE SCIENCE SPECIAL REPORT: FOURTH NATIONAL CLIMATE ASSESSMENT (2017).

B. Floodplains and community flood risk

Much of the nearly 50 acres of wetlands affected by this project are in the floodplain, and the DEIS recommended preferred alternative would impact 251 acres of the Special Flood Hazard Area (flood zones AE and VE for this project). DEIS at 164. The neighborhoods surrounding Filbin Creek in particular can flood in regular rainfall and experienced significant flooding during Hurricanes Matthew and Irma.²⁹ Due to this recurrent flooding “adequate stormwater management” was noted as the number one community concern during the Social Needs Assessment surveys. DEIS at 112. The DEIS notes that “EJ neighborhood residents experience a high degree of vulnerability related to weather hazards given the quality of housing stock, [and] location within the Filbin Creek drainage basin.” DEIS at 124. In order to avoid exacerbating these problems, SCDOT must properly account for floodplain impacts and the water storage lost from filling wetlands and piping streams.³⁰

The flood storage capacity of the wetlands on the proposed site coupled with the potential of this proposal to alter stormwater flow in the watershed through its construction must be considered in order to comply with the Guidelines. Under the Section 404(b)(1) Guidelines, the Corps is required to consider “the capacity of wetlands to retain and store floodwaters and to serve as a buffer zone shielding upland areas from wave actions, storm damage and erosion.” 40 C.F.R. § 230.41(b). Development and wetland fill within the floodplain exacerbate existing flooding issues and leave the area at risk to increased future flooding from intensifying storms, fueled by a changing climate.³¹ Wetlands fragmentation due to road crossings or other construction would potentially exacerbate the risk of flooding in the area.³²

²⁹ A. Simmons, *Filbin Creek drainage study leads to flap gate replacement*, LIVE 5 NEWS (Oct. 19, 2017), <https://www.live5news.com/story/36639585/filbin-creek-drainage-study-leads-to-flap-gate-replacement/>.

³⁰ Flooding has been considered in the preliminary plans for the stream crossings, as “hydraulic structures will be designed to accommodate a 100-year flood.” DEIS at 165. We urge that this plan applies to all hydraulic structures including piped streams, and additionally that the Corps consider the cumulative effects of further wetland and stream fill on flooding given recently granted permits to fill an additional 28.22 acres of wetlands in the headwaters of Filbin Creek. See Rickey Dennis, *Developer’s plans to fill in wetlands raises flooding concerns in North Charleston*, Post and Courier (Jan. 8, 2021), https://www.postandcourier.com/business/real_estate/developers-plans-to-fill-in-wetlands-raises-flooding-concerns-in-north-charleston/article_2154238e-5069-11eb-981f-d325ca4189ff.html.

³¹ U.S. Global Change Research Program, *Southeast*, IMPACTS, RISKS, AND ADAPTATION IN THE UNITED STATES: FOURTH NATIONAL CLIMATE ASSESSMENT, Volume II (2018), <https://nca2018.globalchange.gov/chapter/19/>.

³² Susan Laurance et al., *Drivers of Wetland Disturbance and Biodiversity Impacts on a Tropical Oceanic Island*, Biological Conservation vol. 149, no. 1 (2012).

The public interest review requirement for the issuance of a Section 404 permit further supports the need to consider these critical resilience issues. The decision of whether to issue a Section 404 permit must be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. 33 C.F.R. § 320.4(a)(1). This public interest review requires the Corps to carefully weigh all factors which may be relevant to the proposal, balancing benefits against reasonably foreseeable detriments. *See id.* The regulations list flood hazards, floodplain values, and shore erosion and accretion as factors that must be considered as part of a public interest review if relevant to the project. *See id.* This proposed project is located in an area with documented flooding problems that have been exacerbated by development practices; therefore, it is crucial for the SCDOT and the Corps to adequately consider the potential for flooding on this site.³³

Under the recommended preferred alternative, a net total of 89 acres of land would be converted from pervious to impervious surface, generating new runoff. DEIS at 149. In general stormwater modeling practice, on average 15% of water that falls on pervious surfaces will result in runoff, whereas 90% of water that falls on impervious surfaces will generate runoff.³⁴ Converting these 89 acres to impervious surfaces will generate roughly six times more stormwater runoff than the current pervious surfaces do. The DEIS briefly acknowledges the problems this extra runoff could create for water quality in nearby streams and wetlands, as “the runoff carries pollutants and the increase in peak discharge can lead to scour and bank erosion which then leads to an increase in sediment migration.” DEIS at 159. However, the DEIS does not acknowledge or address the problems this increased runoff volume could create for the neighboring communities, which are already dealing with localized flooding problems as noted elsewhere in the DEIS. The DEIS notes that the LCC WEST project will employ similar stormwater management methods as the current I-526 design. DEIS at 150. To more effectively address these issues, however, we encourage SCDOT to utilize LID stormwater management practices where possible and integrate stormwater management into community mitigation efforts, providing both stormwater capacity and beautification in cooperation with the Community Mitigation Plan. Low Impact Development stormwater methods, such as bioswales and bioretention, not only address flood management but also protect water quality better than stormwater retention ponds.³⁵

³³ See L. Bohman. *Floodflow Characteristics of Filbin Creek at Proposed Interstate Highway 526, North Charleston, South Carolina*. UNITED STATES GEOLOGICAL SURVEY, <https://pubs.usgs.gov/wri/1984/4323/report.pdf>.

³⁴ See https://www.bhamgov.org/A1_Runoff%20Potential.pdf and <https://files.nc.gov/ncdeq/Water%20Quality/Surface%20Water%20Protection/SPU/SPU%20-%20BMP%20Manual%20Documents/BMPMan-Ch03-SWCalcs-20090616-DWQ-SPU.pdf>.

³⁵ K. Ellis et al, *Low Impact Development in Coastal South Carolina: A Planning and Design Guide*, ACE Basin and North Inlet – Winyah Bay National Estuarine Research Reserves, (2014), <https://www.scseagrant.org/wp-content/uploads/LID-in-Coastal-SC-low-res.pdf>.

Additionally, the potential for flood hazards caused by sea level rise, extreme rainfall, and intensifying storm surge is a relevant factor that must be considered as part of the public interest review for a permit proposing development in an area with recorded flooding problems.³⁶ To date, the effect that climate change will have on this project has not been evaluated. The impact sea level rise will have on project infrastructure is especially relevant given the extent of the project intersecting the present-day floodplain. SCDOT uses 2050 as a temporal marker for traffic modeling and should therefore also assess sea level rise to at least this date. In 2020, Charleston saw 68 coastal flooding days in 2020, the second most on record behind 89 events in 2019, and experienced the most major floods, when the tide reaches above 8 feet, ever recorded.³⁷ There is a consensus among researchers that climate change will continue to make storms and the floods that follow more intense, as warmer air can hold more moisture and add more fuel to storm systems.³⁸ Extreme rainfall has already become more frequent and more damaging throughout the Southeast.³⁹ In a climate scenario where today's emission levels remain constant, the number of extreme rain storms in the Southeast will increase by two to three times the historic average by the end of the 21st century.⁴⁰ Before the end of the century, throughout the Southeast, extreme summer thunderstorms that typically result in 100-year floods events are expected to drop between 40 percent and 80 percent more rain than today.⁴¹ This trend will continue into the future even in a scenario with emissions reductions.⁴² With all of these factors considered, it is crucial to consider both present and future flood potential especially when constructing infrastructure in the coastal plain. Planning for impacts now is cheaper and more

³⁶ A. Simmons, *Filbin Creek drainage study leads to flap gate replacement*, LIVE 5 NEWS (Oct. 19, 2017), <https://www.live5news.com/story/36639585/filbin-creek-drainage-study-leads-to-flap-gate-replacement/>.

³⁷ Chloe Johnson, *Charleston recorded second-highest number of tidal floods in 2020, most ever major floods*, Post and Courier (Jan. 4, 2021), https://www.postandcourier.com/news/charleston-recorded-second-highest-number-of-tidal-floods-in-2020-most-ever-major-floods/article_ed736228-4e92-11eb-af25-67108736d76c.html.

³⁸ Global Fluid Dynamics Laboratory, *Global Warming and Hurricanes*, NOAA (2020), <https://www.gfdl.noaa.gov/global-warming-and-hurricanes/>.

³⁹ U.S. Global Change Research Program, *Precipitation Change in the United States*, Climate Science Special Report: Fourth National Climate Assessment, Volume I at 207-230, <https://science2017.globalchange.gov/chapter/7/>.

⁴⁰ *Id.*

⁴¹ Andreas F. Prein et al., *Increased Rainfall Volume from Future Convective Storms in the US*, NATURE CLIMATE CHANGE 7, at 880-884 (2017), <https://www.nature.com/articles/nclimate3168>.

⁴² U.S. Global Change Research Program, *Southeast*, IMPACTS, RISKS, AND ADAPTATION IN THE UNITED STATES: FOURTH NATIONAL CLIMATE ASSESSMENT, Volume II (2018), <https://nca2018.globalchange.gov/chapter/19/>.

responsible than placing the burden on residents and the government down the road – for every \$1 spent on mitigation, the nation saves \$6 in future disaster costs, by the latest estimations.⁴³

C. 401 Water Quality Certification and Coastal Zone Management Consistency Certification.

In addition to a Section 404 permit, the proposed development requires a 401 Water Quality Certification (“401 Certification”) and a Coastal Zone Consistency Certification (“Consistency Certification”) from DHEC to proceed to construction. The regulations implementing these Certification programs set forth similar analytical requirements to the Guidelines. Most notably, DHEC may not issue a 401 Certification or a Consistency Certification to fill or permanently alter wetlands if a feasible alternative exists to the proposal. *See* S.C. Code Regs. 61-101.F.5.a-b.; S.C. Coastal Program⁴⁴ at III.C.3.XII.E.1 (July 1979).

As discussed above, the Corps—and DHEC—must evaluate all alternatives to the proposed development to ensure that no practicable alternative exists which would result in less wetland fill. But the agency should also consider the various other ways in which the project could permanently alter the functions and values of surrounding wetlands. *See* S.C. Code Regs. 61-101.F.5.a-b (directing DHEC to deny 401 Certification where the proposed activity would impair the “functions and values” of the aquatic ecosystem). As discussed above, the construction of the new roadway would cover the area in 89 additional acres of impervious surfaces, generating stormwater runoff and funneling pollution into nearby waterways. Polluted runoff is one of the single largest threats to water quality in the United States, and studies show that waterbodies exposed to urban runoff experience declines in plant and animal diversity and fitness.⁴⁵ Wetlands fragmentation due to interstate construction would compound the effects of pollution by further degrading habitat and water quality,⁴⁶ and these cumulative effects must be considered.

⁴³ National Institute of Building Sciences, *Natural Hazard Mitigation Saves: 2017 Interim Report*, (2017), <https://www.nibs.org/news/381874/National-Institute-of-Building-Sciences-Issues-New-Report-on-the-Value-of-Mitigation.htm>.

⁴⁴ Available at

[https://scdhec.gov/sites/default/files/docs/HomeAndEnvironment/Docs/SC_Coastal_%20Program%20\(Pt.%20-%20-%20Ch.%20III\).pdf](https://scdhec.gov/sites/default/files/docs/HomeAndEnvironment/Docs/SC_Coastal_%20Program%20(Pt.%20-%20-%20Ch.%20III).pdf).

⁴⁵ U.S. Environmental Protection Agency, *NPDES Stormwater Program*, (last updated Mar. 20, 2020), <https://www.epa.gov/npdes/npdes-stormwater-program>.

⁴⁶ Bradley Cosentino et al., *Dispersal and Wetland Fragmentation*, (2018), <https://experts.illinois.edu/en/publications/dispersal-and-wetland-fragmentation>.

VI. Conclusion

We respectfully request that, as SCDOT and FHWA begin assembling a Final EIS for the I-526 West expansion, they seriously consider building TDM and multimodal solutions into the project and seek to avoid and minimize harm to surrounding EJ communities and wetlands. In addition, pursuant to the Clean Water Act and state law, the Corps and OCRM must ensure that impacts to wetlands and other waters are appropriately avoided, minimized, or mitigated. Thank you for your consideration of these comments.

Sincerely,



Christopher K. DeScherer
Charleston Office Director

CC (via e-mail only):

Jason Crowley, SC CCL
Katie Zimmerman, Charleston Moves
Chuck Hightower, DHEC
Blair Williams, DHEC
Pace Wilber, NMFS
Kelly Laycock, EPA Region 4
Susan Davis, SCDNR
Mark Caldwell, USFWS

Appendix A:

BCDCOG Board of Directors Lowcountry Corridor Resolution

A RESOLUTION

TO ADDRESS BICYCLE, PEDESTRIAN, AND PUBLIC TRANSIT ACCESS FOR THE US DEPARTMENT OF TRANSPORTATION'S (USDOT) FEDERAL HIGHWAY ADMINISTRATION (FHWA) AND SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION'S (SCDOT) I-526 LOWCOUNTRY CORRIDOR (LCC) EAST AND WEST PROJECTS

WHEREAS, the existing I-526 LCC corridor is ranked as one of SCDOT's top priorities, with state and federal transportation agencies now evaluating its current and future transportation demands, with each segment proceeding through the National Environmental Policy Act (NEPA) process; and,

WHEREAS, the SCDOT has consistently asserted that widening the corridor for motor vehicles alone will not solve its congestion issues, but no design alternative produced so far incorporates bicycle, pedestrian or transit infrastructure; and,

WHEREAS, the project team has identified transit-dependent communities adjacent to the corridor, and has also collected public comments and survey responses regarding regional concerns about bike, pedestrian and public transit accommodations; and

WHEREAS, the FHWA has "long-standing support of pedestrian and bicycle transportation through policies, planning, and funding" and has created flexible design guidance for pedestrian/bicycle inclusion in projects, encouraging transportation agencies to go beyond minimum standards to provide safe and convenient facilities for these modes, not being "an afterthought" in roadway design but rather "as equals with other transportation modes;" and,

WHEREAS, the USDOT issued a 2010 Policy Statement on Bicycle and Pedestrian Accommodations, Regulations, and Recommendations, the purpose of which is "to reflect the Department's support for the development of fully integrated active transportation networks" with their design being part of Federal-aid project developments, naming transportation agencies as the planners, funders, and implementing body for walking and bicycling networks, including linkages to transit; and,

WHEREAS, the USDOT 2010 Policy Statement relies on the authority under the United States Code and Code of Federal Regulations that "describe how bicyclists and pedestrians of all abilities should be involved throughout the planning process, should not be adversely affected by other transportation projects" with particular encouragement for bicycle and pedestrian accommodation on bridge projects, including limited-access bridges; and,

WHEREAS, the USDOT provides "procedures relating to the provision of pedestrian and bicycle accommodations on Federal-aid projects, and Federal participation in the cost of these accommodations and projects" and the Secretary may withhold approval for projects that negatively impact pedestrians and bicyclists; and,

WHEREAS, the SCDOT Commission approved a 2003 resolution affirming that bicycling and walking accommodations should be a routine part of the Department's planning, design, construction and operating activities, and will be included in the everyday operations of its transportation system; and,

WHEREAS, the SCDOT Multi-Modal Transportation Plan asserts SCDOT's recognition of the benefit of safe and convenient walking and bicycling accommodations, as well as transit, and also notes South Carolina's rising rates of bicycle and pedestrian crashes and fatalities with particular commitment to "doing everything possible to improve those statistics;" and,

WHEREAS, the SCDOT Multi-Modal Transportation Plan recognizes that SCDOT must work collaboratively with their Municipal Planning Organization (MPO) and Council of Government (COG) partners to ensure the multimodal transportation system is preserved, modernized, integrated, and expanded to provide improved mobility options and access to all South Carolinians, visitors, businesses, and industries, and specifically should "improve efforts to leverage federal dollars to address multimodal needs;" and,

WHEREAS, a multitude of approved regional and local plans include bike, pedestrian and transit accommodations along the I-526 LCC, including: WalkBike Berkeley-Charleston-Dorchester (BCD) (2017), Berkeley-Charleston-Dorchester Council of Government's (BCDCOG) Regional Transit Framework Plan (2018), BCDCOG's Park and Ride Study (2018), BCDCOG's 2040 Long-Range Transportation Update (LRTP) (2019), City of Charleston's Plan West Ashley (2019), Town of Mount Pleasant's Comprehensive Plan (2020 - first reading); and,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BERKELEY-CHARLESTON-DORCHESTER COUNCIL OF GOVERNMENTS, IN BOARD ASSEMBLED, THAT:

The BCDCOG Board of Directors supports and formally requests SCDOT and FHWA include connected bicycle, pedestrian and public transit infrastructure in the design, funding and installation of both the LCC EAST and WEST projects, including each EAST and WEST chosen preferred alternative design produced from the draft and final Environmental Impact Statement processes, and that both state and federal agencies absorb the costs for installation of such bicycle, pedestrian and public transit infrastructure as integral parts of the projects in order to mitigate congestion and environmental impacts, while increasing safety, public health, equitable access to employment, education and daily needs, and enhancing quality of life for all in the Charleston region.

READ AND ADOPTED the 28th day of September 2020.


Charles Ackerman, Chairman

Certified true and correct copy of a resolution adopted by the Berkeley-Charleston-Dorchester Council of Governments on September 28, 2020.


Ronald E. Mitchum

Executive Director
Title

September 28, 2020
Date

Appendix B:

CHATS Policy Committee Lowcountry Corridor Resolution

A RESOLUTION

TO ADDRESS BICYCLE, PEDESTRIAN, AND PUBLIC TRANSIT ACCESS FOR THE US DEPARTMENT OF TRANSPORTATION'S (USDOT) FEDERAL HIGHWAY ADMINISTRATION (FHWA) AND SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION'S (SCDOT) I-526 LOWCOUNTRY CORRIDOR (LCC) EAST AND WEST PROJECTS

WHEREAS, the existing I-526 LCC corridor is ranked as one of SCDOT's top priorities, with state and federal transportation agencies now evaluating its current and future transportation demands, with each segment proceeding through the National Environmental Policy Act (NEPA) process; and,

WHEREAS, the SCDOT has consistently asserted that widening the corridor for motor vehicles alone will not solve its congestion issues, but no design alternative produced so far incorporates bicycle, pedestrian or transit infrastructure; and,

WHEREAS, the project team has identified transit-dependent communities adjacent to the corridor, and has also collected public comments and survey responses regarding regional concerns about bike, pedestrian and public transit accommodations; and

WHEREAS, the FHWA has "long-standing support of pedestrian and bicycle transportation through policies, planning, and funding" and has created flexible design guidance for pedestrian/bicycle inclusion in projects, encouraging transportation agencies to go beyond minimum standards to provide safe and convenient facilities for these modes, not being "an afterthought" in roadway design but rather "as equals with other transportation modes;" and,

WHEREAS, the USDOT issued a 2010 Policy Statement on Bicycle and Pedestrian Accommodations, Regulations, and Recommendations, the purpose of which is "to reflect the Department's support for the development of fully integrated active transportation networks" with their design being part of Federal-aid project developments, naming transportation agencies as the planners, funders, and implementing body for walking and bicycling networks, including linkages to transit; and,

WHEREAS, the USDOT 2010 Policy Statement relies on the authority under the United States Code and Code of Federal Regulations that "describe how bicyclists and pedestrians of all abilities should be involved throughout the planning process, should not be adversely affected by other transportation projects" with particular encouragement for bicycle and pedestrian accommodation on bridge projects, including limited-access bridges; and,

WHEREAS, the USDOT provides "procedures relating to the provision of pedestrian and bicycle accommodations on Federal-aid projects, and Federal participation in the cost of these accommodations and projects" and the Secretary may withhold approval for projects that negatively impact pedestrians and bicyclists; and,

WHEREAS, the SCDOT Commission approved a 2003 resolution affirming that bicycling and walking accommodations should be a routine part of the Department's planning, design, construction and operating activities, and will be included in the everyday operations of its transportation system; and,

WHEREAS, the SCDOT Multi-Modal Transportation Plan asserts SCDOT's recognition of the benefit of safe and convenient walking and bicycling accommodations, as well as transit, and also notes South Carolina's rising rates of bicycle and pedestrian crashes and fatalities with particular commitment to "doing everything possible to improve those statistics;" and,

WHEREAS, the SCDOT Multi-Modal Transportation Plan recognizes that SCDOT must work collaboratively with their Municipal Planning Organization (MPO) and Council of Government (COG) partners to ensure the multimodal transportation system is preserved, modernized, integrated, and expanded to provide improved mobility options and access to all South Carolinians, visitors, businesses, and industries, and specifically should "Improve efforts to leverage federal dollars to address multimodal needs;" and,

WHEREAS, a multitude of approved regional and local plans include bike, pedestrian and transit accommodations along the I-526 LCC, including: WalkBike Berkeley-Charleston-Dorchester (BCD) (2017), Berkeley-Charleston-Dorchester Council of Government's (BCDCOG) Regional Transit Framework Plan (2018), BCDCOG's Park and Ride Study (2018), BCDCOG's 2040 Long-Range Transportation Update (LRTP) (2019), City of Charleston's Plan West Ashley (2019), Town of Mount Pleasant's Comprehensive Plan (2020 - first reading); and,

NOW, THEREFORE, BE IT RESOLVED BY THE CHATS METROPOLITAN PLANNING ORGANIZATION'S TRANSPORTATION POLICY COMMITTEE, THAT:

The CHATS Policy Committee supports and formally requests SCDOT and FHWA include connected bicycle, pedestrian and public transit infrastructure in the design, funding and installation of both the LCC EAST and WEST projects, including each EAST and WEST chosen preferred alternative design produced from the draft and final Environmental Impact Statement processes, and that both state and federal agencies absorb the costs for installation of such bicycle, pedestrian and public transit infrastructure as integral parts of the projects in order to mitigate congestion and environmental impacts, while increasing safety, public health, equitable access to employment, education and daily needs, and enhancing quality of life for all in the Charleston region.

READ AND ADOPTED the 5th day of October 2020.


George Bailey, Chairman

Certified true and correct copy of a resolution adopted by the Berkeley-Charleston-Dorchester Council of Governments on October 5, 2020.


Ronald E. Mitchum, Executive Director