STATE OF WISCONSIN CIRCUIT COURT BROWN COUNTY

Brown County Taxpayers Association, *et al.*,

Plaintiffs,

v.

Brown County, *et al.*,

Defendants.

Declaratory Judgment
Case Code: 30701
Case No. 18-CV-13

PLAINTIFFS' BRIEF IN SUPPORT OF MOTION FOR TEMPORARY INJUNCTION

Plaintiffs filed this action to challenge Brown County's recently enacted sales and use tax (the "County Sales Tax"). By state law, such a tax "may be imposed only for the purpose of directly reducing the property tax levy." Wis. Stat. § 77.70. The County Sales Tax is not directly reducing the property tax levy. It is therefore void and unenforceable.

Plaintiffs seek a temporary injunction under Wis. Stat. § 813.02 halting the implementation of the County Sales Tax by doing the following: 1) Prohibiting Secretary Chandler and the DOR from levying, enforcing, or collecting the County Sales Tax during the pendency of this action; and 2) Requiring Secretary Chandler, the DOR, and Brown County to take reasonable and expeditious actions to inform vendors in Brown County that they do not need to collect or remit the additional 0.5% sales and use tax.

In the alternative, if this Court does not enjoin the levying, enforcing, and collecting of the County Sales Tax, Plaintiffs seek an injunction requiring Secretary Chandler and the DOR to hold all collected revenues in trust and prohibiting them from disbursing the revenues to Brown County during the pendency of this action.

STATEMENT OF FACTS

Plaintiff Brown County Taxpayers Association ("BCTA") is an unincorporated nonprofit association. BCTA's business address is P.O. Box 684, Green Bay, Wisconsin 54305-0684. (Heidel Aff., ¶¶1-2.) BCTA's mission is to promote individual freedom and citizen responsibility; limited government which is fiscally responsible, transparent and accountable to the people; and economic policy that encourages free markets, promotes entrepreneurism, respects property rights, and expands opportunity for the people of Brown County to prosper and live free, productive lives. (*Id.*, ¶5, Ex. A.) BCTA has over 100 dues-paying members, including individuals, businesses, and organizations who purchase and use products and services in Brown County. Those members pay and will continue to pay sales and use taxes in Brown County. (*Id.*, ¶7.) BCTA's members also include individuals, business, and other organizations who sell products and services in Brown County. Those members collect and will continue to collect sales and use taxes in Brown County. (*Id.*, ¶8.)

Plaintiff Frank Bennett is an adult citizen of the State of Wisconsin, residing at 2774 Cormier Road, Green Bay, Wisconsin 54313. (Bennett Aff., ¶2.) He regularly purchases products and services in Brown County, and therefore pays and will continue to pay sales and use taxes in Brown County after the County Sales Tax is first levied. (*Id.*, ¶¶4-5.) If he needs to save money on a large purchase, he will have to travel outside of the County. (*Id.*, ¶5.)

Defendant Brown County is a Wisconsin county with an address of 305 East Walnut Street, Green Bay, Wisconsin 54301. Brown County enacted the County Sales Tax. Defendant Richard Chandler is the Secretary of the Wisconsin Department of Revenue ("DOR"). DOR is the state agency responsible for levying, enforcing, and collecting county sales and use taxes

under Wis. Stat. § 77.76. Defendant Chandler is sued in his official capacity. Defendant Chandler's offices are located at 2135 Rimrock Road, Madison, Wisconsin 53703.

On May 17, 2017, the Brown County Board of Supervisors enacted an ordinance creating a 0.5% sales and use tax (the "Ordinance"). (Kamenick Aff., Ex. A) intended to go into effect on January 1, 2018. (*Id.*, Ex. B, pp. 3-6.) According to the Ordinance, the Tax is dedicated to spending $147,000,000 on projects like an expo hall, road infrastructure, libraries, museums, fairgrounds, and a stem research center. (*Id.*, Ex. A, Ex. B, p. 3 (containing the full list).)

Earlier this year, the Brown County Executive issued a 2018 budget proposal. (*Id.*, Ex. C.) On November 1, 2017, the Brown County Board of Supervisors adopted the proposed budget with minor amendments as the County's 2018 budget. (*Id.*, Ex. D, pp. 71-72.) On November 7, 2017, the Brown County Executive signed the 2018 budget with no vetoes. (*Id.*) The budget estimates that the County Sales Tax will raise $22,458,333 in 2018 and calls for spending $17,895,065 of that revenue. (*Id.*, pp. 279-80 (containing the full list).)

For 2017, Brown County's levy was $86,661,972. (Heidel Aff., ¶9, Ex. B.) For 2018, Brown County's levy limit under Wis. Stat. § 66.0602(2) was $91,115,007. (*Id.*) The 2018 budget sets Brown County's property tax levy at $90,676,735 (Kamenick Aff., Ex. D, p. 71), leaving $438,272 of the County's levy limit unused.

ARGUMENT

Under Wis. Stat. § 813.02, "[a] court may issue a temporary injunction when the moving party demonstrates four elements: (1) the movant is likely to suffer irreparable harm if a temporary injunction is not issued; (2) the movant has no other adequate remedy at law; (3) a temporary injunction is necessary to preserve the status quo; and (4) the movant has a reasonable probability of success on the merits." *Milwaukee Deputy Sheriffs' Ass'n v. Milwaukee County*,

2016 WI App 56, ¶20, 370 Wis. 2d 644, 883 N.W.2d 154. "The granting or denial of injunctive relief is a matter of discretion for the circuit court." *Id.* Courts also have broad inherent authority to grant injunctions to execute their decisions. *See In re C.A.S.*, 185 Wis. 2d 468, 485-88, 518 N.W.2d 285 (Ct. App. 1994).

I. PLAINTIFFS WILL SUFFER IRREPARABLE HARM

The Plaintiffs in this action will suffer irreparable harm without an injunction, because any additional sales taxes they pay will be effectively unrecoverable. Plaintiff Bennett lives in Brown County and regularly makes purchases within the County. Most of those purchases are subject to the state sales tax of 5%. He will continue to make those purchases after the County Sales Tax goes into effect, having to pay an additional half percent tax. He will suffer lost time and travel expenses if he needs to make a large purchase outside of the County to avoid the County Sales Tax. Plaintiff BCTA has members who are in the same predicament. The County Sales Tax will therefore directly harm the Plaintiffs by increasing their cost of living, reducing the amount of money they can spend on other products and services, and/or requiring them to incur additional and unnecessary costs to avoid the tax.

That harm is irreparable. Vendors will collect the County Sales Tax at the point of sale and remit the revenue to the DOR, typically on a monthly, quarterly, or annual basis. *See* Wis. Stat. § 77.58(1), (5). The DOR then distributes the proceeds of the County Sales Tax to the county – less a 1.75% administrative fee – on a quarterly basis. Wis. Stat. § 77.76(3).

There is no practical way to remedy the harm suffered by customers who pay an unlawful sales tax. While consumers can request sales tax refunds from the DOR or from the vendor, that process is lengthy, requires filling out detailed forms (*see* Kamenick Aff. Ex. F), and requires the cooperation of the vendor. *See* Wis. Stat. §§ 77.59(4)(a), (9p)(b). It is practically impossible for

the Plaintiffs to remedy all the harm they will suffer from having to pay the unlawful County Sales Tax if this Court does not enjoin it during the pendency of this action.

Plaintiff BCTA suffers a separate harm that is also irreparable. Some of BCTA's members are vendors who will have to impose, collect, and remit the County Sales Tax. Those members will have an added administrative burden imposing, collecting, and remitting the tax. Those harms are real, but are not compensable. The County Sales Tax will also raise the price these vendors must charge their customers and/or decrease their profit margins, putting them at a competitive disadvantage compared to businesses outside the County.

II. THE PLAINTIFFS HAVE NO OTHER ADEQUATE REMEDY AT LAW

The Plaintiffs' other remedies here in court are inadequate. The Plaintiffs can get a declaration that the County Sales Tax is void and unenforceable, and get a permanent injunction against it. That does not remedy the harm the Plaintiffs suffer in the meantime when they pay the tax or suffer increased administrative burdens and a competitive disadvantage. The Plaintiffs cannot obtain damages in this case.

While the Plaintiffs do have the remedies noted above (seeking a return from the DOR or from each individual vendor), those remedies are inadequate for several reasons. The harms the Plaintiffs suffer are diffuse; they will have to keep scrupulous records of all taxable purchases made during the pendency of this lawsuit (a burden itself), and then if the tax is struck down, go ask each of those vendors for a refund, hoping the vendors comply. BCTA's vendor members will suffer administrative burdens and lost business that are not remediable. This Court could avoid all of that and protect Brown County consumers by enjoining the County Sales Tax.

III. A TEMPORARY INJUNCTION IS NECESSARY TO PRESERVE THE STATUS QUO

The status quo is that Brown County is not receiving any sales tax revenue. While the County Sales Tax is being collected by sellers, that money is first sent to the DOR. It will at least be three months before the County sees any of it. This Court can preserve the status quo by either: 1) halting the collection of the sales tax and ordering the DOR to return it to vendors; or 2) by ordering the DOR to hold the revenue in trust.

The benefits of preserving the status quo outweigh any perceived inconveniences and hardships. *Cf. McKinnon v. Benedict*, 38 Wis. 2d 607, 616-17, 157 N.W.2d 665 (1968) ("[A]n injunction 'should not be granted where the inconveniences and hardships caused outweigh the benefits.'") (quoting *Maitland v. Twin City Aviation Corp.*, 254 Wis. 541, 549, 37 N.W.2d 74 (1949). The only "hardship" here is that Brown County may have to delay starting the new projects it had planned on funding with the sales tax revenues, or find a new funding source for them. But those projects are not fundamental expenditures necessary to the ordinary and orderly operation of the County. They are luxuries, not necessities. If this Court enters a temporary injunction and then lifts it, the only harm suffered is a delay in those projects. Acting quickly will prevent the County from proceeding too far down the path.

If the County complains that it has entered into contracts compelling it to spend the sales tax revenues, it can ask this Court to enjoin it from spending that money as a defense to any breach of contract action. In the end, if this Court strikes down the sales tax, none of that money should have been spent anyway. The imposition of the sales tax and the commitment to spend the money it gathers would be *ultra vires*. If this Court enters a temporary injunction and then lifts it, the only harm suffered is a delay in those projects. This Court can act quickly to limit any incidental harm. In contrast, if this Court fails to enter a temporary injunction and then strikes

down the tax, the harm suffered by consumers and vendors will be unremediable. This Court should avoid the foreseeable irreparable harm and temporarily enjoin the tax.

However, if this Court concludes that enjoining the collection of the tax would be inequitable, then it should issue an injunction requiring the DOR to hold all revenue from the County Sales Tax in trust, without disbursing it to the County. If this Court eventually upholds the tax, the full revenue will be available for the County to spend. If this Court strikes it down, the money will at least be available for refunding or for the only lawful purpose for which the tax could have been imposed – direct property tax reduction.

IV. THE PLAINTIFFS HAVE A REASONABLE PROBABILITY OF SUCCESS ON THE MERITS

Prior to 1985, counties could impose sales and use taxes, but the proceeds from such taxes were distributed instead to the cities, villages, and towns within the County. *See* Wis. Stat. §§ 77.70 (1983), 77.76(4) (1983). Before 1985, county sales taxes were rare, "presumably because none of the proceeds of the tax could be used by county government and because counties could not control how the net proceeds of such taxes would be used by other local units of government within the county." Op. Att'y Gen. 1-98 (Kamenick Aff., Ex. E, p. 1).

In 1985, the Legislature changed § 77.76 to allow counties to use the proceeds from county sales taxes themselves. *See* 1985 Wis. Act 29, § 1500x. Later that year, the Legislature took up a technical bill to improve the administration of the tax and make it apply to certain purchases (like vehicles) made outside of the taxing county. *See* 1985 Wis. Senate Bill 376 (Kamenick Aff., Ex. F). During the process, Senator Russ Feingold offered a successful amendment to add language requiring the sales to be used solely "for property tax relief." (Kamenick Aff., ¶10, Exs. G, H, I, & J.) In the Assembly, the vague "property tax relief" language was replaced with the stricter "directly reducing the property tax levy" (Kamenick Aff.

Exs. L & M), which is how the bill was passed and signed by the Governor, *see* 1985 Wis. Act 41. The pertinent portion of § 77.70 currently reads as follows:

> Any county desiring to impose county sales and use taxes under this subchapter may do so by the adoption of an ordinance, stating its purpose and referring to this subchapter. The rate of the tax imposed under this section is 0.5 percent of the sales price or purchase price. Except as provided in s. 66.0621 (3m),[1] **the county sales and use taxes may be imposed only for the purpose of directly reducing the property tax levy and only in their entirety** as provided in this subchapter. (Emphasis and footnote added.)

A. The County Sales and Use Tax May Not Be Used for New Spending

On its face, the highlighted language of § 77.70 requires a county to use the proceeds from a sales and use tax exclusively to reduce the amount of money it collects in property taxes (the property tax levy). The legislature even rejected more vague language in favor of this stricter prohibition. Thus the statute does not allow sales tax revenue to be used for new spending. The property tax levy should go down after the imposition of a sales tax.

Brown County is not using the County Sales Tax to directly reduce its property tax levy. The County's 2017 property tax levy was $86,661,972. If the Tax was being used in its entirety to reduce the property tax levy, the 2018 levy would be $64,203,639 (the 2017 levy less the estimated revenue from the Tax in 2018). Even after accounting for allowable increases (a 2018 levy limit of $91,115,007), the 2018 levy should be no higher than $68,656,674. The County Sales Tax therefore violates Wis. Stat. § 77.70 and is void and unenforceable.

The County may rely on an opinion issued by then-Attorney General James Doyle in 1998, interpreting § 77.70 more broadly. He concluded that preventing the property tax levy from *rising* had the same legal effect as *reducing* it. (Kamenick Aff., Ex. E.) However, no court has ever adopted that interpretation.

[1] That exception is not at issue here, as it applies only to counties with an electronics and information technology manufacturing zone, which Brown County does not have.

Attorney General Doyle analyzed whether a county could budget the sales and use tax proceeds "as a revenue source used to offset the cost of individual items contained in the county budget." (*Id.*) Counties were using this method to dedicate sales and use tax revenue to paying for new projects. He condoned this practice, concluding that there was no meaningful distinction between using sales and use taxes to pay for existing expenses (lowering the actual property tax levy) or for new expenses (preventing the property tax levy from rising). (*Id.*, pp. 2-3.)

The Attorney General's interpretation contradicts the plain language of the statute, which calls for a direct reduction, not the absence of an increase. *See State ex rel. Kalal v. Circuit Ct. for Dane County*, 2004 WI 58, ¶¶44-45, 271 Wis. 2d 633, 681 N.W.2d 110 ("Judicial deference to the policy choices enacted into law by the legislature requires that statutory interpretation focus primarily on the language of the statute. . . . [S]tatutory interpretation 'begins with the language of the statute. If the meaning of the statute is plain, we ordinarily stop the inquiry.'") (quoting *Seider v. O'Connell*, 2000 WI 76, ¶31, 236 Wis. 2d 211, 612 N.W.2d 659). The Attorney General focused on what types of projects the sales and use tax revenue was being used to pay for, while the statute says the revenues may only be used – "in their entirety" – to pay for property tax reduction. The question is not what projects the sales and use tax revenue is being used to fund, but whether the property tax levy decreases.

Attorney General Doyle thought it incongruent that one county could use a sales tax to pay for an existing project already funded by property taxes while another county could not use it to pay for a new project. But that is not incongruous, it is integral to the limitation that the legislature chose to impose. It did not want the sales tax to be used for new spending. That limitation requires the identification of a baseline, and some counties will naturally be at higher spending levels than others.

The opinion also strains the meaning of "directly reducing the property tax levy," because at its best, preventing an increase in the property tax levy is an indirect method of relief. But the statute does not call merely for "relief" (direct or indirect). The legislature specifically rejected a version of the statute using that broader language, instead opting for more specific language requiring a direct reduction. *See Kalal*, 2004 WI 58, ¶51 (a court can look to the legislative history of a statute to "confirm or verify a plain-meaning interpretation").

Finally, if this Court concludes that the meaning of § 77.70 is not clear, then it should look to the context and public discussion of the change. *See Kalal*, 2004 WI 58, ¶¶48, 50 (a court can look to extrinsic sources of information about a statute's meaning if the statute is ambiguous). Property tax relief was a major topic of conversation during the 1985 state budget process.[2] Proposals were made to raise the state sales tax and earmark the money as direct credits on property tax bills.[3] Dane County and the City of Madison lobbied the legislature for a county sales tax so that when the county had to take over municipal responsibilities for various social welfare programs (as required by a change in state law), it could raise funds with a sales tax while the municipalities at the same time lowered their own property tax levies.[4]

Publicly, Senator Feingold, who inserted the "property tax relief" limitation, called the sales tax inequitable and said that if counties were going to use it, "we should ensure that the revenue it raises goes directly toward lowering property tax bills."[5] Governor Tony Earl, after signing the bill into law, said that it was meant to be "a vehicle to hold down property-tax increases rather than a spur to added spending."[6]

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[2] E.g., farmers complained about property taxes and lobbying for relief. (Kamenick Aff. Ex. O.) Property tax relief was a "major feature" of Governor Tony Earl's budget proposal. (Kamenick Aff. Ex. P.)
[3] Kamenick Aff. Exs. P & Q.
[4] Kamenick Aff. Exs. R, S, & T.
[5] Kamenick Aff. Ex. U.
[6] Kamenick Aff. Ex. V.

Of course, money is fungible and one can always say that money raised in one way could have been raised in another. But that statement proves too much. If a sales tax can be called "directly reducing the property tax levy" because it is possible that a county could have raised the property tax by the amount of the anticipated sales tax revenue, then the limitation stating that a sales can tax can **only** be imposed for direct reduction of the property tax levy will have been read out of the statute. Attorney General Doyle's opinion turned a carefully circumscribed legislative grant or authority to impose a sales tax for limited purpose into a general authorization to adopt a sales tax to raise additional revenue.

B. Even if the Attorney General's Opinion Is Correct, the County Sales Tax Is Still Unlawful

Even if the Attorney General's Opinion is a correct interpretation of Wis. Stat. § 77.70, the County Sales Tax is still unlawful. The Attorney General concluded that the term "directly" in the statute means that a sales and use tax cannot be used to pay for anything that the property tax levy could not be raised to pay for. (Kamenick Aff., Ex. E, p. 3.) Specifically, he said that:

> Sales and use tax revenues may not be budgeted as a revenue item used to offset the cost of any specific budget item which cannot be funded through a countywide property tax. Although any revenue source frees up other funds to be used for other budgetary purposes, the budgeting of sales and use tax proceeds to defray the cost of items which cannot be funded by a countywide property tax constitutes indirect rather than direct property tax relief.

(*Id.* (emphasis added).)

Even under Attorney General Doyle's interpretation, the County Sales Tax still violates § 77.70, because Brown County could not have raised its property tax levy to pay for all of the new spending being funded by the County Sales Tax. The Attorney General's opinion (and the amendment of § 77.70) occurred before the enactment of levy limits. Levy limits prohibit how

much counties may raise their property taxes, sharply limiting what a county can spend on new projects with a property tax increase or, by the Attorney General's logic, with a sales and use tax.

Counties were not subject to levy limits until 2006. *See* 2005 Wis. Act 25. Under § 66.0602(2), "political subdivisions" (including counties, § 66.0602(1)(c)) may not increase their levies "in any year by a percentage that exceeds the political subdivision's valuation factor." A "valuation factor" "means a percentage equal to the greater of either the percentage change in the political subdivision's January 1 equalized value due to new construction less improvements removed between the previous year and the current one or zero percent." § 66.0602(1)(d). Effectively, a county's levy is fixed at its current level, and can only be raised if the county experiences a net positive growth in property values due to new construction. A county cannot exceed this levy limit, unless it gets approval by referendum of the voters. § 66.0602(4).

The Attorney General's opinion did not, and could not, take into account the effect of levy limits on § 77.70. Because of levy limits, it is no longer true that a county can raise the property tax levy however much it wants to pay for new expenditures. It can only raise its levy by an amount proportional to the net growth in new construction in the county. If the cost of the projects exceeds the allowable levy increase, the county cannot raise its levy to pay for those projects. Because a county cannot raise its property tax levy to pay for those projects, implementing a sales and use tax to pay for those projects would not avoid a property tax increase that would otherwise occur. A simple syllogism demonstrates this logic:

Major premise:	A county can only use a sales and use tax to pay for projects the county could levy a property tax to fund.
Minor premise:	A county cannot levy a property tax to fund projects in excess of its levy limit.
Conclusion:	A county cannot use a sales and use tax to pay for projects in excess of its levy limit.

Brown County proposes to fund $147,000,000 in new projects over seven years with the County Sales Tax, including almost $18,000,000 in new spending in 2018. Brown County's allowable levy limit increase in 2018 was $4,453,035. Brown County therefore could not have raised its levy to pay for the $18,000,000 in new projects. Brown County is not using the County Sales Tax "only for the purpose of directly reducing the property tax levy and only in [its] entirety." *See* Wis. Stat. § 77.70. Instead, Brown County is using the County Sales Tax to evade its levy limits, increasing its overall tax revenue by over 25% in 2018. Even under the Attorney General's interpretation, the County Sales Tax violates Wis. Stat. § 77.70.

C. That the County Might Have Borrowed Is Immaterial

Brown County might argue that it could have raised property taxes in excess of its levy limit (and therefore would be allowed to use its sales tax under Doyle's opinion) to pay for debt service on new borrowing. But the County did not take that route, which would have required clearing a variety of procedural hurdles and which would have been subject to a variety of limitations and restrictions that were avoided here. These restrictions are important. The Doyle opinion relied on a dictionary definition of "directly" as "without intermediate step." Exceeding the levy limit for borrowing requires a number of intermediate steps.[7]

Under Wis. Stat. § 66.0602(3)(d)2., counties can exceed their levy limits to pay for new debt service, subject to state constitutional limits on total indebtedness. Brown County may argue that, since it **could** have exceeded its levy limit to pay for debt service, the minor premise of the above syllogism breaks down because the county **could** have borrowed $145 million to pay for the projects and then raised the property tax levy to pay for that debt service.

But Brown County did not borrow the money. State law imposes a variety of extraordinary procedural requirements for borrowing, and Brown County did not employ them.

[7] For similar reasons, an argument that the County could have raised its levy limit by referendum is also unavailing.

See generally Wis. Stat. § 67.045(1). In order to even attempt to argue that it has directly reduced the property tax, the County would have to have complied with the procedural requisites to borrow money. Having failed to comply with the requisites for issuing debt, the County cannot exceed its levy limits to pay for the projects that the sales tax will now fund. And because it cannot, the sales tax does not provide a direct property tax reduction.

To say otherwise would render the various restrictions on incurring debt meaningless. They could be avoided by enacting a sales tax. It would undermine the constitutional cap on debt established by Art. XI, sec. 3(2) and allow the county to use its borrowing capacity to raise revenue without having that revenue charged against the debt limit.

It is beyond a stretch to call this elaborate Rube Goldberg interpretation "direct" property tax levy reduction. First, it has to be assumed that the County would have borrowed to pay for these projects had it not passed a sales tax. Second, it has to be assumed that the County would have had the legal authority to borrow for the projects. Third, it has to be assumed that paying for debt service on <u>borrowing</u> is just as good as paying for the projects <u>directly</u>. Finally, it still has to be assumed that avoiding an increase actually counts as a reduction. This circuitous and uncertain route is not "directly reducing the property tax levy."

Permitting Brown County to justify adopting a sales tax because it says it could have and would have borrowed the money would render the limit of a sales tax to direct property tax reduction meaningless. Brown County has a debt limit of roughly one billion dollars and a current unused capacity of about $925 million. (Kamenick Aff., Ex. C, p. 318.) The debt service on its unused capacity far exceeds the yield of a .5 % sales tax; it could therefore always justify the adoption of a sales tax to spend more money. This is contrary to both the statutory language and legislative intent.

Accepting this argument would write the exception out of the statute, thwarting the legislature's desire to allow a county sales tax for the sole purpose of directly reducing property taxes. Such a result runs directly contrary to the legislature's intent.

V. REQUESTED RELIEF

The Plaintiffs ask for a temporary injunction with the following components:

1) Prohibiting Secretary Chandler and the DOR from levying, enforcing, or collecting the County Sales Tax during the pendency of this action; and
2) Requiring Secretary Chandler, the DOR, and Brown County to take reasonable and expeditious actions to inform vendors in Brown County that they do not need to collect or remit the additional 0.5% sales and use tax.

In the alternative, if this Court concludes that enjoining the levying, collection, and enforcement of the County Sales Tax would cause too much harm, this Court could enter an alternative injunction allowing the County Sales Tax to be imposed and collected by vendors and remitted to the DOR, but ordering the DOR to hold that revenue in trust during the pendency of this lawsuit. If this Court eventually upheld the tax, the money could be disbursed to the County to pay for the new projects at that point. If this Court eventually struck down the tax, the money could be returned to the vendors or the County could be ordered to spend it lawfully by reducing the property tax levy and reducing local taxpayers' year end property tax bills.

Dated this 4th day of January, 2018.

Respectfully submitted,
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