

MEMORANDUM FOR RECORD

MAY 24, 1977

On this date, State Auditor William T. Putnam, as Secretary of the State Budget and Control Board, received from Attorneys for the Plaintiff Attorney General Daniel R. McLeod, Deputy Attorney General C. Tolbert Goolsby, Jr., and Assistant Attorney General Karen LeCraft Henderson, copies of the following which relate to an action brought to determine the constitutionality of the composition of the State Budget and Control Board as set forth in Section 1-351 of the South Carolina Code of Laws, in that it includes two legislators:

- (1) a Petition and a Complaint filed in the State of South Carolina Supreme Court;
- (2) an Order of Chief Justice J. Woodrow Lewis granting that the referenced action be instituted in the original jurisdiction of the Supreme Court; and
- (3) a Summons requiring an answer to the referenced Complaint within twenty days after this date.

The referenced materials have been retained in the files of the State Budget and Control Board. The Board's counsel also received a set of these materials.

William A. McInnis

William A. McInnis
Assistant to State Auditor

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

State of South Carolina, ex relatione Daniel R.
McLeod, Attorney General,

Plaintiff,

versus

James B. Edwards, Governor of the State of South
Carolina, as ex officio Chairman and member of
the State Budget and Control Board, Grady L.
Patterson, Jr., Treasurer of the State of South
Carolina, Earle E. Morris, Jr., Comptroller
General of the State of South Carolina,
Rembert C. Dennis, Chairman of the Finance
Committee of the South Carolina Senate and
Tom G. Mangum, Chairman of the Ways and Means
Committee of the South Carolina House of
Representatives, as ex officio members of
the State Budget and Control Board,

Defendants.

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the
Complaint in this action, of which a copy is herewith served upon you,
and to serve a copy of your answer to said Complaint on the subscribed
at their office, Room 507, Wade Hampton Office Building, Columbia,
South Carolina, within twenty (20) days after the service hereof, exclusive
of the day of such service; and if you fail to answer the Complaint within
the time aforesaid the Plaintiff in this action will apply to the Court
for the relief demanded in the Complaint.

DANIEL R. McLEOD
Attorney General

C. TOLBERT GOOLSBY, JR.
Deputy Attorney General

KAREN LeCRAFT HENDERSON
Assistant Attorney General

By: Karen Le Craft Henderson

Columbia, South Carolina

May 24, 1977

ATTORNEYS for Plaintiff

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

State of South Carolina, ex relatione Daniel R. McLeod, Attorney General,

Plaintiff,

versus

James B. Edwards, Governor of the State of South Carolina, as ex officio Chairman and member of the State Budget and Control Board, Grady L. Patterson, Jr., Treasurer of the State of South Carolina, Earle E. Morris, Jr., Comptroller General of the State of South Carolina, Rembert C. Dennis, Chairman of the Finance Committee of the South Carolina Senate, and Tom G. Mangum, Chairman of the Ways and Means Committee of the South Carolina House of Representatives, as ex officio members of the State Budget and Control Board,

Defendants.

COMPLAINT

The State of South Carolina, on the relation of its Attorney General, Daniel R. McLeod, respectfully shows:

1. That this action is brought pursuant to Sections 10-2001 et seq. of the South Carolina Code of Laws in order to determine the constitutionality of the composition of the State Budget and Control Board as set forth in Section 1-351 of the South Carolina Code of Laws, in that it includes two legislators;
2. That Daniel R. McLeod is the duly elected, qualified and acting Attorney General of the State of South Carolina and brings this action in the name of and on behalf of the State of South Carolina;
3. That the defendant James B. Edwards is the duly elected, qualified and acting Governor of the State of South Carolina

and, as such, serves ex officio as the Chairman of and as a member of the State Budget and Control Board;

4. That the defendant Grady L. Patterson, Jr., is the duly elected, qualified and acting Treasurer of the State of South Carolina and, as such, serves ex officio as a member of the State Budget and Control Board;

5. That the defendant Earle E. Morris, Jr., is the duly elected, qualified and acting Comptroller General of the State of South Carolina and, as such, serves ex officio as a member of the State Budget and Control Board;

6. That the defendant Rembert C. Dennis is the Chairman of the Senate Finance Committee and, as such, serves ex officio as a member of the State Budget and Control Board;

7. That the defendant Tom G. Mangum is the Chairman of the House Ways and Means Committee and, as such, serves ex officio as a member of the State Budget and Control Board;

8. That, pursuant to Section 1-351 of the South Carolina Code of Laws, the State Budget and Control Board is comprised of the Governor, ex officio, the State Treasurer, ex officio, the Comptroller General, ex officio, the Chairman of the Senate Finance Committee, ex officio, and the Chairman of the House Ways and Means Committee of the House of Representatives, ex officio;

9. That, pursuant to Section 1-352 of the South Carolina Code of Laws, the functions of the State Budget and Control Board are performed, exercised and discharged through three divisions, to wit, the Finance Division, the Purchasing and Property Division and the Division of Personnel Administration;

10. That the powers, duties, functions and responsibilities of the State Budget and Control Board are prescribed by the following statutes, among others:

I. Code of Laws of South Carolina, 1962, as amended.

<u>Title and Section</u>	<u>Contents</u>
1-41	The Board may approve the procurement of blanket departmental bonds on forms approved by the Attorney General covering all employees of such departments and the Board approves the penal sum of such bonds.
1-205	The Secretary of State is to take charge of all property of the State whose care and custody is not otherwise provided for, subject to the direction and instructions of the Board and is to act as its agent in such redemption, lease and sale as it may make.
1-353, 1-354, 1-355, 1-357, 1-358	These provisions authorize the Board to enforce, modify or abrogate its rules and regulations relating to the purchase or supply of personal property to be utilized by any State agency and department, to act on behalf of any State agency or political subdivision, <u>inter alia</u> , in the acquisition of surplus property from the United States, to assist in locating and completing the acquisition of such surplus property through its Purchasing and Property Division, to control all vacant lands and lands purchased by the former land commissioners of the State and to cooperate with and assist in the handling of the financial obligations of political subdivisions of the State.
1-361, 1-363	The Board is authorized to execute leases of gas, oil and other minerals and mineral rights over and under lands and waters owned by the State, subject to conservation laws and including offshore marginal and submerged lands.
1-364, 1-365, 1-370, 1-372, 1-375, 1-379, 1-382	These provisions relate to the State's phosphate interest, giving the Board exclusive control and protection thereof, including the power to fix and alter rates for digging phosphate, to issue mining licenses and to institute proceedings to prevent interference.
1-401, 1-402, 1-411, 1-415, 1-419, 1-421, 1-424	These provisions relate to the State House buildings and grounds, vesting in the Board the duty to maintain, police and beautify them, to regulate parking and to employ watchmen and policemen.

<u>Title and Section</u>	<u>Contents</u>
1-431 through 1-452	These provisions empower the Board to carry all the insurance on all county and school public buildings, including reinsurance, to create an insurance sinking fund, to reduce premiums in certain circumstances, to determine the amount of insurance and to contract for sprinkler systems.
1-464	The Board is to elect annually a State electrician and engineer.
1-501 through 1-504	These provisions empower the Board to supervise and control all public printing, binding, engraving and lithographing for the State, including the style and arrangement thereof.
1-521 through 1-543	These provisions relate to State contracts for printing, authorizing the Board to advertise therefor, to let and relet such contracts, to approve all purchases of printing and duplicating equipment and to purchase all office supplies required by the General Assembly and by State departments and agencies.
1-721 through 1-730	These provisions set out the State budget system, including the Board's duty to secure budgetary information and annual estimates from all State agencies, to hold public hearings on those estimates, to submit its proposed budget to the General Assembly along with other accompanying statements and to attend and be heard at the joint open meetings of the appropriations committees.
1-741 through 1-752	These provisions relate to the deposit of State funds, empowering the Board to designate the depository bank or trust company, to approve a general deposit account to be kept by the State Treasurer and to require an indemnity bond on the part of the depository bank.
1-761 through 1-776	These provisions concern State indebtedness, prohibiting any State borrowing except by the Board, allowing the Board to borrow from departments of State government under certain circumstances, to borrow to pay the State operating expenses, to borrow to maintain a balance in the general deposit account, to borrow to maintain the general fund and to issue bonds, notes or other certificates of indebtedness in small denominations.
1-791 through 1-803	The State Sinking Fund is to be managed by the Board and the Board is to sell all real and personal property of State not in actual use. The Board is empowered to invest all funds in the Sinking Fund in designated ways and to have the power to sell, hold, transfer and dispose of all securities and investments in which such funds have been invested.

<u>Title and Section</u>	<u>Contents</u>
1-881	The Board is to select the State Auditor.
18-421 through 18-463	These provisions relate to the establishment of drainage districts under a 1920 act and empower the Board, <u>inter alia</u> , to form such districts, to participate in the election or appointment of supervisors to manage such districts and to confer with the chief engineer of such districts concerning the reclamation of lands in the district.
21-264	The Board may borrow each year in anticipation of the receipt of revenues provided for School Aid such sums as may be necessary to pay for the amounts appropriated.
21-459	With the Board's approval, the State Board of Education may issue negotiable notes and pledge all books purchased and all rentals collected for the payment of rental or purchase contracts.
21-837, 21-837.1	The Board is to agree with the State Educational Finance Commission upon the form of indebtedness and the rate of interest of indebtedness incurred by the Commission to effect purchases of school bus equipment.
22-21 through 22-39	These provisions relate to State institution bonds, authorizing the Board to approve the tuition amounts charged students attending designated State institutions, to approve or modify as it sees fit any application from a State institution for funds to refund outstanding bonds, to pay certain expenses or for permanent improvements, to transmit to the Governor and the State Treasurer a request for the issuance of State institution bonds in such amount as it approves and to approve the sale of such bonds.
28-317	The Board is to purchase on competitive bids the hunting licenses and other forms to be used each hunting season.
29-13	The Board is to convey to the State Commission of Forestry such waste lands owned by the Board or the State as, in the Board's judgment, would be in the State's interest for reforestation or forestry development.
30-252	The Board is to examine all claims for services rendered or supplies furnished to the State and make a report of its findings to the House Ways and Means Committee along with its recommendation as to the payment of such claims.

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<u>Title and Section</u>	<u>Contents</u>
32-1056	With the Board's approval, the compact administrator of the Interstate Compact on Mental Health is to arrange for any payments necessary to discharge obligations imposed upon the State by such compact.
33-227.1	The Board through its Purchasing and Property Division is to award contracts or provide other arrangements for fulfilling requirements of State agencies relating to the State Highway Department's purchases of materials, supplies and equipment.
61-11 through 61-20, 61-81, 61-91 through 61-94	The Board is vested with the responsibility for the proper administration of the South Carolina Retirement System [Chapters 1 through 9 of Title 61 of the 1962 South Carolina Code of Laws, as amended], including the appointment of a Medical Board and an actuary, the adoption of rules and regulations for the administration of the System, the alteration of accounting methods used by the System and the control and disbursement of System funds.
65-2842 through 65-2868	These provisions relate to the enforced collection of taxes by the Board, including the survey and assessment of omitted or abandoned property, the issuance of execution against such property, the hearing of appeals when taxes are alleged to have been paid, the disposition of surplus funds after sale of such property, the disposition of forfeited lands sold to the State, the investigation and collection of shortages with respect to tax collection and the paying over to county treasurers of simple school taxes collected by the Board.
65-2919, 65-2931 through 65-2933	These provisions relate to forfeited lands, directing the Board to apply its share of sales proceeds to the reduction of the State debt and empowering the Board to hear and decide petitions for relief from the State's renunciation of title to lands forfeited prior to 1887 and its resultant assessment and collection of unpaid taxes, charges, penalties and assessments with respect to such land.
70-295.5	The Board is to approve all expenses and salaries of personnel employed to enforce boating safety regulations.

II. Code of Laws of South Carolina, 1962, as amended,
1975 Cumulative Supplement.

<u>Title and Section</u>	<u>Contents</u>
1-42.2	The Board may approve the granting by a department or agency head of additional sick leave in extenuating circumstances. Through its Division of Personnel, the Board may promulgate rules and regulations necessary to administer sick leave provisions.
1-49.3	The trustees or governing bodies of State institutions and agencies may grant easements and rights of way over any property under their control upon the concurrence and acquiescence of the Board.
1-49.15 through 1-49.18	Known as the State Employee Grievance Procedure Act of 1974, these provisions create a State Employee Grievance Committee whose members are appointed by the Board. The Committee hears appeals from permanent State employees as to grievances involving career status or continuing State employment after all administrative remedies within their own agency or department have been exhausted. The Committee reports its findings to the Board which can either accept or reject them; if rejected, the Board makes its own decision which is final.
1-49.51 through 1-49.60	These provisions create a State Personnel Division under the Board to administer a comprehensive system of personnel administration applicable to all State agencies except as provided. The Board appoints the State Personnel Director who is the administrative head of the Division. The Board is authorized and directed to establish a variety of procedures and policies relating to personnel management and exercises final approval of policies and programs incident to the administration of the personnel system. The Board also appoints the members of the Advisory Council which reviews and comments on proposed policies and procedures relating to personnel. Finally, the Board may exempt from the classification and compensation plan such personnel employed by State institutions of higher learning and/or medical institutions of education and research as are recommended by the respective governing bodies thereof.
1-91.8, 1-91.13, 1-91.15	These provisions empower the Board to adopt regulations pertaining to annual leave provisions administered by each State agency, to establish through its Personnel Division procedures for the equitable calculation of leave for employees who do not work on a normal work week basis and to review the grant by an agency head of additional leave to an employee in an emergency situation.

<u>Title and Section</u>	<u>Contents</u>
1-357.1 through 1-357.5	Pursuant to these provisions, the Board is authorized to grant easements for public utilities on vacant State lands, to grant rights of way over State marshlands for roads or power or pipelines to State agencies or political subdivisions, to acquire real property for and in the name of the State by gift, purchase or condemnation and to sell surplus personal property of the State.
1-359, 1-359.1, 1-360	The Board through its Purchasing and Property Division is empowered to purchase supplies for counties, municipalities, independent colleges, school districts or political subdivisions when requested and, through its General Services Division, to provide tort liability insurance for State employees and to execute certificates of exemption from taxation on behalf of political subdivisions.
1-367	The Board may issue leases or licenses to dig, mine and remove phosphate rock from streams, rivers and marshes belonging to the State.
1-395	The Board may direct agencies and departments, including those of political subdivisions, to initiate studies as to the need for changes in the laws relating to nuclear materials and to the operation of production facilities therefor.
1-400.13	Under the Atomic Energy and Radiation Control Act, the Board has certain powers and duties in accord with its responsibility for custody of State properties and for management of all State sinking funds and insurance.
1-401.1	The Board through its General Services Division Director may authorize the use of the State House steps, grounds and capitol mall by issuing a permit for such functions as are not normal to the operation of State government.
1-431, 1-431.1	The Board is to carry all the insurance on all public buildings and the contents thereof owned by the State or by State-supported institutions; the State Highway Department can elect to assume its own risks as to its buildings. If the governing body of an incorporated municipality requests it, the Board is also authorized to insure that municipality's public buildings.
1-460	The Board must approve the architectural or engineering firm with which any State agency proposes to contract.

<u>Title and Section</u>	<u>Contents</u>
1-491 through 1-499.3	These provisions relate to the construction of public buildings to insure access by handicapped persons. The State Engineer and the Director of Inspection Services of the General Services Division are <u>ex officio</u> voting members of the Board for Barrier-Free Design, an agency of the Budget and Control Board under the General Services Division created to enforce the provisions relating to the construction of public buildings so as to insure access by handicapped persons.
1-589, 1-591	These provisions authorize the Board to approve the schedules prepared by state or regional agencies for the retention of public records and to approve the destruction or other disposition of public records by the Director of the Department of Archives and History.
1-703	The Board is authorized to transfer certain funds from one department to another when personnel are transferred by legislative act from one department to another to perform the same functions.
1-778	The Board is authorized to approve a greater rate of interest than seven per cent on certain obligations of the State and its political subdivisions.
1-783.2	By no later than September thirty each year, the Board is to determine the extent to which revenues of the General Fund of the fiscal year just ended exceeded, if any, expenditures and appropriations carried forward.
1-1041, 1-1042	The Board through its General Services Division is empowered to regulate the acquisition, use and distribution of Federal surplus property and may require a bond of any person receiving or distributing property from the United States under these provisions.
9-371 through 9-387	These provisions relate to the issuance and refunding of revenue bonds by the Public Railways Commission and to the extension of its operations, all of which actions must first be approved by the Board pursuant to these provisions.

[This listing expressly excludes Sections 14-399.21 through 14-399.35 of the 1962 South Carolina Code of Laws, as amended (Cum. Supp.).]

<u>Title and Section</u>	<u>Contents</u>
21-60.4	The Board is to approve the acceptance and use of all contributions made to the Educational Television Commission.
21-840	The Board through its Sinking Funds and Property Division Director is to procure insurance contracts on all State-owned school buses.
21-999.8	The Board may approve the private placing of State school bonds used for the purchase of school bus equipment.
22-41.1 through 22-41.17	Known as the Educational Facilities Authority Act for Private Nonprofit Institutions of Higher Learning, these provisions create the Authority whose members consist of the Board members <u>ex officio</u> . The purpose of the Authority is to assist institutions for higher education in the construction, financing and refinancing of projects and it is empowered to acquire real and personal property, to issue revenue bonds and to regulate the disposition of moneys received.
22-96 through 22-96.17	Known as the State Education Assistance Act, these provisions create the Authority whose members consist of the Board members <u>ex officio</u> . The purpose of the Authority is to assist students attending eligible institutions and it is empowered to establish a student loan fund, to issue revenue bonds and to regulate the custody and application of all moneys.
22-107.1	The Board is to approve the lease or sale of real property donated to the University of South Carolina by the University Board of Trustees.
22-563	The Board is to promulgate rules and regulations relating to Palmer College.
22-614(4), 22-617	The Board is to approve the lease, sale or other disposition of real property owned by the State College Board of Trustees.
29-29.1	The Board is to approve the cutting of any timber on State park lands and is to approve contracts and expenditures made by the State Commission of Forestry for reforestation, timber stand improvement and harvest cutting.

<u>Title and Section</u>	<u>Contents</u>
32-798 through 32-798.23	Known as the Hospital Revenue Bond Act, these provisions authorize county governing bodies to issue revenue bonds for the improving, equipping, acquiring and providing of hospital facilities with the approval of the Board.
32-945 through 32-945.8	These provisions relate to capital improvements for mental retardation facilities and authorize the Board to approve or modify applications from the State Mental Retardation Commission for funds realized from the sale of State capital improvement bonds and to permit the Commission to withdraw any excess in revenues remitted to the State Treasurer and apply that excess to capital improvements.
33-271 through 33-280.9	These provisions relate to State highway bonds and empower the Board to review any request from the State Highway Department for the issuance of such bonds and to approve the issuance of such bonds or bond anticipation notes.
37-86	The office of State Fire Marshal is transferred to the Board under its General Services Division effective July 1, 1966.
39-141	The Board may accept the relinquishment by the United States of jurisdiction over Federal lands.
44-318	The Board may authorize emergency loans for disaster and recovery operations to counties and municipalities when the General Assembly is not in session.
47-19.2	When territory proposed to be annexed to an incorporated municipality belongs to the State, the Board is to petition the city or town council for the property to be annexed.
51-71 through 51-87	These provisions create the Department of Parks, Recreation and Tourism and authorize the Board to approve the purchase or disposition of real property by the Commission, to approve interest rates on sums borrowed by the Commission and to assign to the Commission such other areas of responsibilities as it may require.
51-79.11 through 51-79.16	These provisions create the Recreation Land Trust Fund under the control and administration of the Department of Parks, Recreation and Tourism. The Board is to approve the expenditure of funds for the acquisition of property.

<u>Title and Section</u>	<u>Contents</u>
54-231 through 55-328	These provisions relate to the control of certain salvage operations, designating the Board as the custodian of things of value found on the bottoms of navigable waters other than certain specified exceptions, empowering the Board to issue permits to salvage such things of value other than certain specified exceptions and authorizing the Board to approve the use of any funds received by it or by the Institute of Archaeology and Anthropology.
57-200.10	The Board is empowered to rent or sell as it sees fit escheated property purchased in the name of the Board by the State Treasurer.
57-220.1, 57-220.4	These provisions authorize the State Treasurer as the Board's agent to act as escheator in discovering, renting, litigating and realizing money from escheated lands and empower the Board to determine the disposition of the proceeds of escheats.
[This listing expressly excludes Sections 63-195.51 through 63-195.65 of the 1962 South Carolina Code of Laws, as amended (Cum. Supp.).]	
63-195.97, 63-195.99	These provisions enumerate the powers of the Board with respect to the authorization of State grants to local units for the treatment, collection and disposal of sewage and other effluent and to the execution of assistance agreements between the Board and such local units for State grants and the repayment thereof.
65-74	The Board is to approve the payment of expenses by the State Tax Commission for obtaining expert witnesses and other evidence in any judicial proceeding to which the Commission is a party.
72-602	The Board through its appointed director is to administer the Second Injury Fund.

[This listing expressly excludes the provisions of Act No. 1377 of 1968, as amended. 55 STAT. 3175 (1968).]

11. That each of the prescribed powers, duties, functions and responsibilities of the State Budget and Control Board, including but not limited to those listed in paragraph 10, is wholly executive in nature and the exercise of such is not reasonably incidental to the full and effective execution and performance of any legislative power or duty;

12. That the composition of the State Budget and Control Board is unconstitutional for one or more of the following reasons:

a. In that the State Budget and Control Board includes two legislators who, by virtue of their membership on the Board, have assumed, exercise and discharge the functions and duties of the executive department in violation of Article I, Section 8 of the South Carolina Constitution; and

b. In that the inclusion on the State Budget and Control Board of the Chairman of the Senate Finance Committee and of the Chairman of the House Ways and Means Committee usurps the executive power of the State in violation of Article IV, Section 1 of the South Carolina Constitution in that it invests in them the executive authority to enforce and execute laws enacted by the General Assembly;

13. That, because of the composition of the State Budget and Control Board, it may not lawfully and constitutionally exercise its powers, duties, functions and responsibilities; and

14. That, if a declaratory judgment is rendered or entered herein, the uncertainty and controversy giving rise to these proceedings will be terminated.

WHEREFORE, the plaintiff prays:

A. That this Court declare that the composition of the State Budget and Control Board as set forth in Section 1-351 of the South Carolina Code of Laws is either wholly unconstitutional or unconstitutional only to the extent that it includes among its members the Chairman of the Senate Finance Committee, ex officio, and the Chairman of the House Ways and Means Committee, ex officio;

B. That this case be heard and determined on the merits at an expedited hearing; and

C. That the plaintiff be accorded such further and appropriate relief as this Court may deem proper, just or necessary.

DANIEL R. McLEOD
Attorney General

C. TOLBERT GOOLSBY, JR.
Deputy Attorney General

KAREN LeCRAFT HENDERSON
Assistant Attorney General

By: Karen LeCRAFT Henderson

ATTORNEYS for Plaintiff

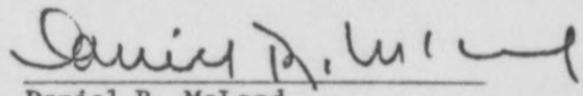
Columbia, South Carolina

May 24, 1977

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

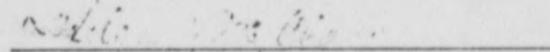
VERIFICATION

PERSONALLY appeared before me, Daniel R. McLeod,
Attorney General of South Carolina, who being duly sworn, deposes
and says that he has read the foregoing Complaint and that all
of the matters and facts stated therein are true to the best
of his knowledge.


Daniel R. McLeod

SWORN to before me this

5th day of May, 1977.


Notary Public for South Carolina (LS)

My Commission Expires: .

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

State of South Carolina, ex relatione Daniel R.
McLeod, Attorney General,

Plaintiff,

versus

James B. Edwards, Governor of the State of South
Carolina, as ex officio Chairman and member of
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Committee of the South Carolina Senate and
Tom G. Mangum, Chairman of the Ways and Means
Committee of the South Carolina House of
Representatives, as ex officio members of
the State Budget and Control Board,

Defendants.

ORDER

A verified petition has been filed by Daniel R.
McLeod, the Attorney General of the State of South Carolina, that
requests permission from this Court for the State of South Carolina,
on his relation as Attorney General, to institute the above-
entitled action in the original jurisdiction of this Court. The
action seeks a declaratory judgment as to the constitutionality
of the composition of the State Budget and Control Board as set
forth in Section 1-351 of the South Carolina Code of Laws, in that
it includes two legislators.

It appears from the petition and the complaint attached
thereto that the action alleged in the complaint involves a matter
that is, as the Attorney General alleges, strictly publici juris
in which no one citizen has any special interest other than that
which is common to citizens in general. Accordingly, it is

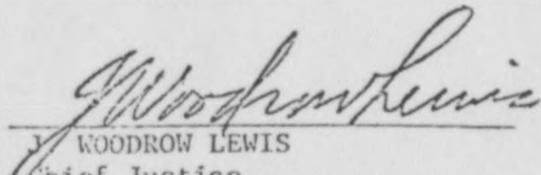
ORDERED that the petition to allow the State of South Carolina, on relation of the Attorney General, to institute the above-entitled action in the original jurisdiction of this Court be granted.

IT IS FURTHER ORDERED that each defendant serve upon the plaintiff and file with this Court the defendant's answer to the complaint within twenty (20) days after the service thereof upon the defendant of a summons, complaint, a copy of the aforementioned petition excluding the complaint attached thereto, and a copy of this order.

IT IS FURTHER ORDERED that the above-entitled action be argued on the merits at an expedited hearing to be held during the June, 1977, term of this Court and that the parties may file and serve a request for admissions within twenty (20) days after the commencement of this action.

IT IS FURTHER ORDERED that the plaintiff file and serve its brief on or before May 31, 1977, and that the defendants file and serve their respective briefs on or before June 7, 1977. Any reply brief of the plaintiff shall be filed and served on or before the date of the hearing.

IT IS FURTHER ORDERED that the plaintiff shall file with the Clerk of this Court fifteen (15) copies of the record herein and fifteen (15) copies of its brief and the defendants shall file with said Clerk fifteen (15) copies of their respective briefs.


J. WOODROW LEWIS
Chief Justice
Supreme Court of South Carolina

Columbia, South Carolina

May 24, 1977.

THE STATE OF SOUTH CAROLINA

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C. Dennis, Chairman of the Finance Committee
of the South Carolina Senate, and Tom G. Mangum,
Chairman of the Ways and Means Committee of the
South Carolina House of Representatives, as
ex officio members of the State Budget and Control
Board,

Defendants.

EX PARTE: Petition of Daniel R. McLeod, Attorney General,
State of South Carolina.

PETITION

The petition of the State of South Carolina on the
relation of its Attorney General, Daniel R. McLeod, would
respectfully show:

1. That Daniel R. McLeod is the duly elected,
qualified and acting Attorney General of the State of South
Carolina;
2. That, as more fully appears in the complaint
which is attached hereto and made a part hereof, the State of
South Carolina, on relation of its Attorney General, Daniel R.
McLeod, proposes to institute in the original jurisdiction of

the Supreme Court of South Carolina against James B. Edwards, Governor of the State of South Carolina, as the ex officio Chairman of and a member of the State Budget and Control Board, Grady L. Patterson, Jr., Treasurer of the State of South Carolina, Earle E. Morris, Jr., Comptroller General of the State of South Carolina, Rembert C. Dennis, Chairman of the Finance Committee of the South Carolina Senate, and Tom G. Mangum, Chairman of the Ways and Means Committee of the South Carolina House of Representatives, as ex officio members of the State Budget and Control Board, an action seeking a declaratory judgment as to the constitutionality of the composition of the State Budget and Control Board as set forth in Section 1-351 of the South Carolina Code of Laws, in that it includes two legislators.

3. That, as more fully appears in the complaint attached hereto and made a part hereof, the action therein alleged involves a matter that is strictly publici juris in which no one citizen has any special interest other than that which is common to citizens in general; and

4. That, inasmuch as an early determination of the issue presented by that action would be in the public interest, permission from this Court allowing that action to be brought in its original jurisdiction is fully warranted.

WHEREFORE, petitioner prays that this Court grant his petition and fix a date upon which this cause may be heard and, further, that if his petition is granted and an expedited hearing set, the petitioner, pursuant to Rule 89 of the Circuit Court

Rules, requests leave of this Court to file and serve a request for admissions within twenty (20) days after the commencement of this action.

DANIEL R. McLEOD
Attorney General

C. TOLBERT GOOSLBY, JR.
Deputy Attorney General

KAREN LeCRAFT HENDERSON
Assistant Attorney General

BY: Karen LeCraft Henderson
ATTORNEYS for Plaintiff

May 24, 1977.

Columbia, South Carolina.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

State of South Carolina, ex relatiōne
Daniel R. McLeod, Attorney General, Plaintiff,
v.

James B. Edwards, Governor of the
State of South Carolina, as ex officio
Chairman and member of the State Budget
and Control Board, Grady L. Patterson, Jr.,
Treasurer of the State of South Carolina,
Earle E. Morris, Jr., Comptroller General
of the State of South Carolina, Rembert
C. Dennis, Chairman of the Finance Committee
of the South Carolina Senate and Tom G.
Mangum, Chairman of the Ways and Means
Committee of the South Carolina House of
Representatives, as ex officio members of
the State Budget and Control Board, Defendants.

IN THE ORIGINAL JURISDICTION

Opinion No. 20463
Filed July 12, 1977

COMPLAINT DISMISSED

Attorney General Daniel R. McLeod, Deputy Attorney General
C. Tolbert Goolsby, Jr., and Assistant Attorney General
Karen LeCraft Henderson, all of Columbia, for plaintiff.

Huger Sinkler, of Sinkler, Gibbs & Simons, of Charleston,
for defendants.

LEWIS, C. J.: This action in the original jurisdiction of the Court involves an attack upon the constitutionality of the legislation creating the State Budget and Control Board (The Board).

The Board is comprised of the Governor, the State Treasurer, the Comptroller General, the Chairman of the Senate Finance Committee, and the Chairman of the Ways and Means Committee of the House, all ex officio members. Section 1-351, 1962 Code of Laws. It is an executive body dealing primarily with the fiscal affairs of the State government and, pursuant to Code Section 1-352, performs its functions through three divisions, to wit: the Finance Division, the Purchasing and Property Division, and the Division of Personnel Administration.

The constitutional attack is two-fold. First, it is argued that the inclusion on The Board of the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee (members of the Legislative Branch of the government) violates the provisions of Article 1, Section 8 of the South Carolina Constitution, which provides that: "In the government of this State, the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other." Secondly, it is contended that membership of the two legislators on The Board usurps the executive powers of the government in violation of Article IV, Section 1, which states that "the supreme executive authority of this State shall be vested in . . . The Governor of the State of South Carolina."

We are convinced that established precedent requires rejection of the contention that inclusion of the two legislators on the membership of The Board violates the separation of powers provision. Harper v. Schooler, 258 S. C. 486, 189 S. E. 2d 284 (1972); Mims v. McNair, 252 S. C. 64, 165 S. E. 2d 355 (1969); Elliott v. McNair, 250 S. C. 75, 156 S. E. 2d 421 (1967).

Each of the three above cited cases involved a constitutional challenge of particular bond issues.

In Elliott the court considered the membership of The Board in the light of the constitutional provisions against dual office holding and requiring separation of powers. The issues were summarized as follows:

The Act provides that no bond shall be issued by the County Board without the approval of the State Budget and Control Board of South Carolina. The Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee are members of the State Board. The appellant contends that the State Board, of whom the foregoing are members, is given powers which violate the provisions of Article II, Section 2, and Article I, Section 14, of the Constitution. The first of these sections forbids dual office holding and the second section requires separation of powers.

In answer to the stated contentions, the Elliott court held that the composition of The Board did not violate either the dual office holding or separation of powers provisions of the State Constitution. The fact, argued by petitioner, that the court discussed mainly the dual office holding attack in no way impinges upon the authority of Elliott to sustain the constitutionality of The Board against the contention that it violates the separation of powers doctrine. This is made clear by subsequent decisions of the court, particularly Mims v. McNair, supra.

In Mims, it was contended that the Act in question violated Article I, Section 14, now Article I, Section 8, of the Constitution because the composition of The Board included the Chairman of the Finance Committee and the Chairman of the Ways and Means Committee. The court rejected the foregoing contention solely upon the authority of the prior decision in Elliott. In doing so, the court stated:

It is further contended that the Bond Act violates the constitutional requirement for the separation of the legislative and executive functions as prescribed by Article I, Section 14, in that the two members of the State Board, which is the body authorized by the Bond Act to issue the bonds, are also members of the General Assembly, to wit: The Chairman of the Senate Finance Committee and the Chairman of the Ways and Means Committee. There is no merit in this contention. Elliott v. McNair, 250 S. C. 75, 156 S. E. 2d 421.

Finally, as late as 1972, in the case of Harper v. Schooler, supra, 258 S. C. 486, 189 S. E. 2d 284, this Court upheld the constitutionality of The Board against identical challenges as those presented in this case. The court's statement of the issues and its rulings thereon in Harper were as follows:

The Elliott case is likewise controlling adverse to the plaintiff's contention that the delegation of powers to the State Budget and Control Board violates the provisions of Article II, Section 5 and Article I, Section 14 of the South Carolina Constitution on the alleged grounds that dual office holding results and executive functions are devolved upon members of the General Assembly. . . .

If doubt existed before, certainly none could validly exist after Mims that this Court had construed the separation of powers clause as permitting membership of the two legislative members on The Board.

Subsequent to the decisions in Mims and Elliott, the General Assembly, by Joint Resolution, proposed a new Article I to the South Carolina Constitution, which

sets forth in Section 8 thereof the precise words which formerly appeared in Section 14 of the previous Article I (The separation of powers provision considered in the cited cases). 56 Stat. 2684, Joint Resolution No. 1268, April 21, 1970. This Article was subsequently approved by the people.

Defendants correctly assert that this resubmission of the separation of powers clause, in the exact language it had previously existed, expressed the contentment of the General Assembly, not merely with the separation of powers principle as originally expressed, but with those words as then judicially construed by the Supreme Court of South Carolina.

It must be presumed that the General Assembly, in readopting the separation of powers clause in its previous form, were familiar with this court's holdings in Mims and Elliott and that the words of Section 8 of Article I had been construed to mean that the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee could be lawfully included in the composition of The Board. If it had been the intent of the General Assembly to exclude the foregoing legislative members, certainly Section 8 would have been rewritten in such fashion as to override the prior decisions of this Court construing the language as permitting such membership. Miller v. Farr, 243 S. C. 342, 133 S. E. 2d 838.

It is a well established rule that "framers of a new Constitution who adopt provisions contained in a former Constitution to which a certain construction has been given are presumed as a general rule to have intended that these provisions should have the meaning attributed to them under the earlier instrument." 16 Am. Jur. 2d, Constitutional Law, Section 80. 16 C.J.S., Constitutional Law, Section 35.

The foregoing principle will be applied in the absence of anything to indicate that a meaning different from the accepted construction was intended. Nothing appears in this case to indicate that, in readopting the precise language of Section 14, as Section 8 in new Article I, there was any intent to ascribe to it a meaning different from the prior judicial construction placed upon it by this Court. Therefore, the prior judicial construction of the precise language readopted in the separation of powers clause (Section 8 of Article I), permitting inclusion of the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee as members of The Board, is controlling as to its present meaning, regardless of what our views might have been as a matter of first impression.

We therefore adhere to the prior holding in the Mims and Elliott cases to the effect that the present composition of The Board does not violate the separation of powers principle.

While the foregoing disposes of the present separation of powers issue, we think that an examination of the principle, as applied to the present facts, reveals the basis for the result reached in our prior decisions. Important in this case is the fact that the General Assembly has been careful to put the legislative members in a minority position on The Board. The statutory composition of The Board does not represent an attempt to usurp the functions of the executive department, but apparently represents a cooperative effort by making available to the executive department the special knowledge and expertise of the chairmen of the two finance committees in the fiscal affairs of the State and the legislative process in general. We view the ex officio membership of the legislators on The Board as cooperation with the executive in matters which are related to their function as legislators and not usurpation of the functions of the executive department. The Supreme Court of Kansas recently expressed this view in State, ex rel. Schneider v. Bennett, 219 Kan. 285, 547 P. 2d 786, 792, as follows:

The separation of powers doctrine does not in all cases prevent individual members of the legislature from serving on administrative boards or commissions created by legislative enactments. Individual members of the legislature may serve on administrative boards or commissions where such service falls in the realm of cooperation on the part of the legislature and there is no attempt to usurp functions of the executive department of the government.

Our attention is called, however, to the line of cases represented by Bramlette v. Stringer, 186 S. C. 134, 195 S. E. 257; Ashmore v. Greater Greenville City District, 211 S. C. 77, 44 S. E. 2d 88; and Dean v. Timmerman, 234 S. C. 35, 106 S. E. 2d 665; as authority for holding that the composition of The Board violates the separation of powers doctrine. We do not view these cases as inconsistent with our holdings in Mims, Elliott, and Harper, supra.

In Bramlette and Dean, the executive or administrative function was wholly usurped by the legislative branch; and in Ashmore there was no proper ex officio relationship between the legislative duties and the functions assumed for the District. However, as previously pointed out, the minority legislative representation on The Board in this case was apparently intended to allow the chairmen of the two committees to cooperate with the executive branch in action reasonably incidental to their legislative duties. These considerations were lacking in Bramlette, Ashmore, and Dean.

The argument that the composition of The Board usurps the executive powers of the Governor in violation of Article IV, Section 1, is also without merit.

The constitutional powers granted to the Governor are set forth in Article IV, Sections 13, 14, 15, 17, 19, and 21. None of these powers are limited in any way by the composition of The Board. Plaintiff has pointed out, in his brief, the large increase in the duties and functions placed in The Board since its creation. However, we are concerned here only with the constitutionality of its composition and not with the wisdom of the enactments increasing its functions.

The composition of the State Budget and Control Board has been sanctioned as lawful for a long number of years by legislative enactments, judicial construction, the executive, and the people. We find no sound basis to justify upsetting this long sanction and acceptance of The Board as a vital part of the machinery of the government of this State. The complaint is accordingly dismissed.

LITTLEJOHN, NESS, RHODES and GREGORY, JJ., concur.

E N D

MINUTES OF BUDGET AND CONTROL BOARD MEETING

MAY 24, 1977 3:00 P. M.

The Budget and Control Board met at 3:00 p. m. on May 24, 1977
in the Governor's Conference room with the following members in attendance:

Governor James B. Edwards
Mr. Grady L. Patterson, Jr.
Mr. Earle E. Morris, Jr.
Senator Rembert C. Dennis
Representative Tom G. Mangum

Also attending were Board Secretary State Auditor William T. Putnam,
Governor's Executive Assistant James Meredith and his Assistant A. E.
Reiser and Assistant to State Auditor William A. McInnis.

The following items of business were considered:

MINUTES OF PREVIOUS MEETING - Budget and Control Board members
previously had been furnished with minutes of the meeting held on May 4, 1977.
Following a brief discussion of the Board's action on the Piedmont Health
Care Health Maintenance Organization Petition (Pages 8 and 9 of the minutes),
upon a motion by Mr. Patterson, seconded by Mr. Morris, the Budget and Control
Board approved these minutes as written.

POLL OF MAY 24, 1977 - Budget and Control Board members without
objection approved all items included on a poll agenda dated May 24, 1977
furnished along with agenda materials for the present meeting, as supplemented
by materials distributed on May 23, 1977. Items included in the poll are
specifically identified as such in these minutes.

CONSULTANT SERVICES CONTRACTS (POLL ITEM 1) - The Budget and Control
Board without objection approved the following consultant services contracts,
pursuant to the proviso in Part I, Section 13, Pages 44-45 of the 1976-77

Appropriation Act:

<u>AGENCY/Consultant</u>	<u>Maximum Dollars</u>
1. UNIVERSITY OF SOUTH CAROLINA/ Dr. William H. Patterson	\$15,575.00
2. DEPT. OF ARCHIVES AND HISTORY/ Hartzog, Lader & Richards	\$10,012.40
3. DIVISION OF ADMINISTRATION/ (a) Stephen Carter & Associates	\$20,000.00
(b) Division of Research and Statistical Services	\$38,000.00
(c) Reorganization Commission	\$16,880.00 (\$10,000 increase)
4. DEPT. OF HEALTH AND ENVIRONMENTAL CONTROL/ Locke & Robison	\$13,500.00 (est.)
5. UNIVERSITY OF SOUTH CAROLINA/ Dr. George W. Bunch, Jr.	\$ 1,000.00 (monthly)
6. EDUCATIONAL TELEVISION COMMISSION/ Educational Broadcasting Corporation	\$20,000.00

Additional details on the referenced consultant services contracts have been retained in these files and are identified collectively as Exhibit I.

DEPARTMENT OF MENTAL HEALTH - GRANT OF EASEMENT - The Department of Mental Health has approved the granting of an easement and right-of-way to the City of Columbia for the purpose of constructing and maintaining a water line which will serve department facilities in the Farrow Road area.

The Department now requests that the Budget and Control Board concur with the granting of this easement and right-of-way to the City of Columbia, pursuant to Code Section 1-493.

The Budget and Control Board without objection concurred with the referenced action of the Department of Mental Health.

Information pertaining to this matter has been retained in these files and is identified as Exhibit II.

UNIVERSITY OF SOUTH CAROLINA - SELECTION OF ON-CALL CONSULTANTS

(POLL ITEM 3) - The University of South Carolina has selected four engineering

firms for on-call services for a two-year period, after following the required selection procedure. The firms selected by the University, in order of preference, are:

- A. Central Energy Plants, etc.
 - (1) Bruce Flemming & Associates;
 - (2) Enwright Associates; and
 - (3) W. E. Gilbert & Associates.

- B. Building Mechanical Systems
 - (1) Durlach, O'Neal, Jenkins & Associates;
 - (2) Felkel & Hastings; and
 - (3) Harold Swygert & Associates.

- C. Underground Electrical Distribution
 - (1) Southeastern Consulting Engineers;
 - (2) Frederick A. Smith Engineers; and
 - (3) Tectonics Engineering Consultants.

- D. Secondary Electrical Systems
 - (1) John C. Evans, Jr.;
 - (2) Holiday Coleman/Williams; and
 - (3) Buford Goff & Associates

The Budget and Control Board without objection approved the selection of the first-named firm in each of the referenced four categories, as requested by the University of South Carolina, pursuant to Code Sections 1-453 through 1-460.

Information relating to this matter has been retained in these files and is identified as Exhibit III.

DIVISION OF MOTOR VEHICLE MANAGEMENT - VEHICLE PURCHASE REQUESTS

(POLL ITEM 4) - Mr. Allan Spence, Director of the Division of Motor Vehicle Management, recommended approval of the following motor vehicle acquisition (fleet addition) requests:

- (1) Department of Health and Environmental Control: one 15-passenger van for patient transportation in Beaufort County.

- (2) Department of Corrections: two intermediate sedans to meet requirements of new programs and/or positions.

The Budget and Control Board without objection approved the referenced motor vehicle acquisition requests, as recommended by Mr. Spence.

Information pertaining to this matter has been retained in these files and is identified as Exhibit IV.

DIVISION OF GENERAL SERVICES - RIGHT-OF-WAY EASEMENT GRANT (POLL ITEM V) - Mr. Furman McEachern, Director of the Division of General Services, reported that his Division has negotiated a contract with the East Richland County Public Service District to provide a sewer line to serve the State Park Health Center and the new DHEC Laboratory now under construction. He indicated that the construction of this sewer line requires the granting of a right-of-way easement across State Park Health Center property from the intersection of Parklane Road and Interstate 20 to the existing sewage lagoon. Mr. McEachern recommended that the Board approve the granting of this right-of-way easement to the East Richland County Public Service District.

The Budget and Control Board without objection approved the granting of the referenced right-of-way easement as recommended by Mr. McEachern.

Information relating to this matter has been retained in these files and is identified as Exhibit V.

DIVISION OF GENERAL SERVICES - PRINTING EQUIPMENT REQUESTS (POLL ITEM 6) - Mr. Furman McEachern, Director of the Division of General Services, reported that the State Printing Officer has reviewed the following printing equipment requests and recommended their approval by the Board:

(1) S. C. State College: purchase one A B Dick Platemaker and Plate Exposure Unit at an approximate cost of \$1,635 to replace worn-out equipment;

(2) Department of Education: lease one Xerox 9200 duplicating system and one Xerox 920 Stitcher; and

(3) University of South Carolina: purchase typesetting equipment to replace obsolete equipment purchased in 1969.

The Budget and Control Board without objection approved the referenced

printing equipment acquisitions, as recommended by Mr. McEachern.

DIVISION OF GENERAL SERVICES - FILING OF BARRIER-FREE DESIGN STANDARDS (POLL ITEM 7) - Mr. Furman McEachern, Director of the Division of General Services, advised the Board that, pursuant to the Board's approval on October 26, 1976 of his recommendation that Section 508 of the Southern Standard Building Code pertaining to barrier-free design requirements be adopted by the Board of Barrier-Free Design, his Division now has complied with the administrative procedures of Act 671 of 1976 (the State Register Act) by filing Section 508 of the Southern Standard Building Code, along with American National Standards, Inc. Section A117.1, with the Legislative Council and the the General Assembly.

The Budget and Control Board received this item as information.

STATE RETIREMENT DIVISION - APPOINTMENT OF RETIREMENT AND PRE-RETIREMENT ADVISORY BOARD (POLL ITEM 8) - The Budget and Control Board was reminded that, at its February 1, 1977 meeting, a sub-committee including Governor Edwards, Mr. Patterson and Mr. Morris was named to recommend a slate of eight persons to the Retirement and Pre-Retirement Advisory Board and that the Retirement Division Director Collins had provided a list of nominees for possible appointment.

The Board received this item as information and Governor Edwards indicated his intention to request that the sub-committee meet soon to develop its list of nominees for consideration by the Board.

Information relating to this matter has been retained in these files and is identified as Exhibit VI.

USC - SPARTANBURG - USE OF OPERATING FUNDS FOR RENOVATIONS -
State Auditor Putnam review briefly the request by the University of South Carolina at Spartanburg to expend up to \$40,000 of operating funds (\$10,000 from the 1976-77 appropriation and \$30,000 from the 1977-78 appropriation) for renovations. Mr. Putnam noted that, in the course of developing the

1977-78 Appropriation Bill, a Senate Finance Committee Sub-Committee had questioned the addition of \$200,000 for the purpose of expanding the Nursing Program at the Spartanburg Regional Campus and that the use of \$30,000 from next year's appropriation would represent fifteen percent of these additional monies or about twenty-five percent of a proposed fee increase, all of which appeared to raise questions about the Agency's priorities.

Dr. Olin B. Sansbury, Vice President, USC at Spartanburg, appeared before the Budget and Control Board on this matter and indicated that additional funds were justified on bases other than the Nursing Program expansion alone and that accomplishing the proposed renovation project would serve to reduce rental costs now incurred by the institution.

Senator Dennis expressed the view that an agreement with a Finance Committee Sub-Committee is not binding.

After considering this request along with two other similar requests, upon a motion by Senator Dennis, seconded by Mr. Morris, the Budget and Control Board without objection approved the use by USC-Spartanburg of \$10,000 of operating funds from the 1976-77 appropriation and \$30,000 of operating funds from the 1977-78 appropriation for the renovation of space in the Administration Building for office use. The Board action stipulated that the approval of this request did not constitute a precedent.

Information relating to this matter has been retained in these files and is identified as Exhibit VII.

COLLEGE OF CHARLESTON - USE OF OPERATING FUNDS FOR PERMANENT IMPROVEMENT - Mr. Floyd Tyler, Vice President for Business Affairs, College of Charleston, appeared before the Budget and Control Board in support of President Stern's request that \$100,000 of general operating funds now on hand be used to connect the College Lodge chillers, boiler and related equipment to the College's centralized energy and utility systems. President Stern had indicated that the equipment now serving the College Lodge

(which houses about 200 students) is beyond repair and will have to be replaced before the fall term and that, because of considerations of economy and efficiency, it is desired to extend work now underway on a central energy facility to connect this presently decentralized system to the central system. President Stern also proposed to effect this conversion, if the request is approved, by means of a Change Order to the Central Energy Facility Project recently contracted with C. R. Hipp, Inc.

Following the consideration of this item along with two other similar requests, the Budget and Control Board, upon a motion by Senator Dennis, seconded by Mr. Morris, approved the use of not more than \$100,000 of general operating funds now on hand for the connection of College Lodge chillers, boiler and related equipment to the central energy and utility systems of the College of Charleston. The Board action stipulated that the approval of this request does not constitute a precedent for application in future similar situations.

Information relating to this matter has been retained in these files and is identified as Exhibit VIII.

UNIVERSITY OF SOUTH CAROLINA - USE OF OPERATING FUNDS FOR PERMANENT IMPROVEMENT - Mr. Harold Brunton, Vice President for Operations, and Mr. B. A. Daetwyler, Vice President for Finance, University of South Carolina, appeared before the Budget and Control Board to propose the use of approximately \$300,000 of operating funds for the purchase of a Central Energy Management System. Dean Brunton indicated that these funds are available because, through manual conservation methods, the University was able to save about ten percent of the \$4,000,000 budgeted for utility expenses during the year. He noted that, to accomplish this saving, most of the University's mechanical work force were taken off of their normal maintenance jobs and have been involved in making manual adjustments to control the mechanical utility system. Dean Brunton also indicated that the acquisition of the Central Energy

Management System would allow the University to return its maintenance personnel to their regular duties and also make possible still further energy savings.

After considering this item along with two other similar requests, upon a motion by Senator Dennis, seconded by Mr. Morris, the Budget and Control Board without objection approved the use by the University of South Carolina of \$300,000 of operating funds to purchase a Central Energy Management System. This action by the Board also stipulated that the approval of this request did not constitute a precedent to be followed in similar situations in the future.

Information relating to this matter has been retained in these files and is identified as Exhibit IX.

UNIVERSITY OF SOUTH CAROLINA - SETTLEMENT OF CULTURAL CENTER A&E CONTRACT - University of South Carolina Vice President for Operations Harold Brunton appeared before the Budget and Control Board to request authorization to settle the payment of an architectural and engineering fee related to the Cultural Center (Auditorium) projects and to use up to \$75,000 of State Institution Bond funds from University Project 27-87 (Property Acquisition, Northeast) with funds remaining in the Cultural Center projects to pay the fee still due the architectural and engineering firm involved. Mr. Brunton reported that, after much negotiation, University staff and the A&E firm have agreed to use an estimated construction cost of \$8,600,000 as the basis for determining the fee due on the referenced projects which are now held in abeyance because most of the funds originally made available for them subsequently were returned to the General Fund.

Mr. Brunton also reported that the USC Board of Trustees has agreed to the use of the modified construction cost estimate as a basis for determining the A&E fee due but the Board of Trustees insisted that the University acquire possession and ownership of all plans and specifications

involved. Mr. Brunton noted that the A&E firm has agreed to this and that, in addition, the University has agreed to allow that A&E firm first opportunity to buy the plans back from the University for the amount of fees in question should someone else want to erect the auditorium facility. This arrangement answered a question raised by Mr. Furman McEachern about any residual interest retained by the A&E firm in the plans and specifications in view of the fact that the project is now held in abeyance.

State Engineer John McPherson called attention to a provision in the A&E contract which requires the A&E firm to provide appropriate accounting information to the University as required for projects involving use of Federal Revenue Sharing Funds as is the case in this instance. State Engineer McPherson suggested that the University assure itself that these requirements have been satisfied prior to making any final settlement with the A&E firm involved. Mr. Brunton indicated agreement with this suggestion.

Following a brief discussion of the University's acquisition of the referenced plans and specifications, Governor Edwards suggested that all future State A&E contracts include a provision making the plans and specifications developed pursuant to such contracts State property.

Following these discussions, upon a motion by Senator Dennis, seconded by Mr. Morris, the Budget and Control Board without objection approved the settlement of the contractual obligation with the A&E firm relating to the Cultural Center project on the basis of an estimated construction cost of \$8,600,000, with USC having ownership of the plans and specifications and with the A&E firm having first option to buy them back for the amount of fees in question at some future time. The motion approved by the Board also authorized the University of South Carolina to use up to \$75,000 of State Institution Bond funds from Project 27-87, Property Acquisition, Northeast, which, with funds remaining in the Cultural Center Project, would

be used to pay the fees still due the A&E firm.

Information relating to this matter has been retained in these files and is identified as Exhibit X.

DEPARTMENT OF CORRECTIONS - SELECTION OF A&E FIRM - State Auditor

Putnam reviewed briefly the request by Department of Corrections Commissioner William D. Leeke that the Board approve the selection of an A&E firm to provide the services required in connection with the design and construction of three prototype facilities (one medium security, one minimum security, and one work-release/pre-release facility). Mr. Putnam pointed out that the points agreed to at the May 13, 1977 briefing involving representatives of the Department of Corrections and the Budget and Control Board have been incorporated into the proposed contract which was negotiated by the A&E firm, representatives of the Department of Corrections, the Attorney General's Office and the State Engineer. The contract provides that the entire project be broken down into four phases, namely, (1) pre-design analysis and schematic design phase; (2) design developments phase; (3) construction document and bidding or negotiation phase; and (4) construction phase - administration of the construction contract. The proposed contract is for professional services in all four phases with professional fees and expenses for Phase 1, approximately eighteen percent of the project, being contracted for in this contract document and such fees and expenses shall not exceed \$235,800. The contract provides that the A&E firm will submit a monthly request for payment with appropriate documentation on forms supplied by the State and further provides that after the conclusion of Phase 1, the State will negotiate professional fees and expenses for any or all remaining phases. The option of removing the work-release/pre-release facility from the contract after the completion of Phase 1 also is included. The contract provides that plans and specifications developed by the A&E firm will be the property of the State for reuse as deemed appropriate by the State and that any liability

for reuse of the plans and specifications may be negotiated with the A&E firm at the time of any future reuse at the option of the State. The agreement also provides that the State Engineer will receive copies of all submittals made by the A&E firm for review during the course of the project. The A&E firms selected by the Department of Corrections after following the required selection procedure, in order of preference, are:

- (1) Wilbur Smith and Associates/Hellmuth, Obata & Kassabaum, Inc.;
- (2) Lucas and Stubbs/Gruzen & Partners; and
- (3) J. E. Serrine Company

Following a brief discussion, upon a motion by Mr. Morris, seconded by Mr. Patterson, the Budget and Control Board without objection approved the selection of Wilbur Smith and Associates/Hellmuth, Obata & Kassabaum, Inc. for the referenced projects and approved the tentative contract proposed covering Phase 1 only with a maximum payment of \$235,800 for fees and expenses.

Information relating to this matter has been retained in these files and is identified as Exhibit XI.

DIVISION OF GENERAL SERVICES - AMORTIZATION AGREEMENT ON EMPLOYMENT SECURITY COMMISSION BUILDING - Mr. Furman McEachern, Director of the Division of General Services, appeared before the Budget and Control Board to report that agreement has been negotiated with the appropriate Federal authorities to provide for the amortization of \$4,000,000 of the cost of the Employment Security Building at an interest rate of 5½ percent for a period of eighteen years and to recommend that the Board approve the execution of this agreement. Mr. McEachern pointed out that the agreement provides for the payment by the Employment Security Commission of operational and maintenance costs in the amount of the actual dollars expended by the State to provide these services and that the agreement further provides that, in the event the Commission is required by the State to vacate the building, similar suitable space is to be provided for the Commission by the State or an appropriate reimbursement of the Federal funds provided under the agreement would be made.

Mr. Rudy Counts, Assistant Director of the Division of General Services, pointed out that the agreement provides that title to the site on which the building is located and the improvements thereon are and shall be in the State of South Carolina but that the Employment Security Commission, after repayment of the \$4,000,000, as provided by the agreement, would have the right to occupy the building indefinitely with no charge for the building itself.

Following a brief discussion, upon a motion by Mr. Patterson, seconded by Mr. Morris, the Budget and Control Board approved the execution of the referenced agreement as recommended by Mr. McEachern.

A copy of the amortization arrangement approved by the Budget and Control Board has been retained in these files and is identified as Exhibit XII.

DIVISION OF GENERAL SERVICES - EMPLOYMENT SECURITY COMMISSION

BUILDING SITE - Mr. Furman McEachern, Director of the Division of General Services, appeared before the Budget and Control Board to report that his Division and the City of Columbia have not been able to mutually agree on an exchange of other State lands under the control of the Division of General Services for the Employment Security Commission Building site. The Budget and Control Board, at its meeting on February 15, 1977, had denied a request by the Division of General Services to include \$300,600 in the list of Capital Improvement Bond authorizations recommended to the General Assembly and directed the Division of General Services to continue its efforts to negotiate with the City of Columbia on a possible exchange of State-owned lands for the ESC building site. This item also was withdrawn from the agenda of the April 20 and May 4, 1977 meetings of the Budget and Control Board.

Mr. McEachern recommended that the Budget and Control Board authorize the Division of General Services to use the balance in the North Tower Project, which was financed by a loan from the Insurance Reserve Fund

pursuant to Act 1555 of 1972 (Section 17), and funds from the Debt Service Account to pay the City of Columbia \$300,600 for the ESC building site. Mr. McEachern indicated that the Attorney General's Office had rendered an opinion which found that the referenced loan balance could be used for this purpose under the law.

Following a brief discussion, upon a motion by Mr. Patterson, seconded by Mr. Morris, the Budget and Control Board authorized the Division of General Services to use the balance in the North Tower Project and funds from the Debt Service Account to pay the City of Columbia \$300,600 for the Employment Security Commission Building site.

SECRETARY'S NOTE: Governor Edwards had to leave the meeting prior to the discussion of the two items pertaining to the Employment Security Commission and returned during the discussion of the following item.

DIVISION OF GENERAL SERVICES - NEGOTIATIONS FOR SALE OF AIRPORT CAMPUS PROPERTY - The Budget and Control Board without objection agreed to receive a report from Mr. Furman McEachern, Director of the Division of General Services, on progress in negotiating the sale of the Airport Campus Property to Midlands TEC. Mr. McEachern indicated that the property has been valued at slightly more than \$1,000,000 and that a lease/purchase arrangement is now being considered by the parties involved.

Senator Dennis expressed appreciation to the Division of General Services for its "generosity" in working out the proposed lease/purchase arrangement to this point.

The report by Mr. McEachern was received as information.

STATE PERSONNEL DIVISION - NIGHT AND WEEK-END DUTY PAY FOR MENTAL HEALTH PHYSICIANS - William S. Hall, M.D., Commissioner, and Mr. P. G. Reeves, Deputy Commissioner, of the Department of Mental Health, appeared before the Budget and Control Board to request Board authorization to increase the payments made to physicians who are required to work nights

and on week-ends as the administrative officer of the day/night of five of the Department's institutions. Dr. Hall briefly reviewed the background of the request to increase the rate of pay for this duty from \$50 to \$100 and stressed the importance of having as the administrative officer of the day/night experienced physicians who are thoroughly familiar with the mental health statutes and procedures. Dr. Hall also noted that other similar institutions in the Columbia area pay several times as much as his Department does and that this puts his Agency at a big disadvantage in its efforts to utilize other physicians in the area.

Personnel Division Deputy Director Joe Mack indicated that the State Personnel Division is recommending a higher pay rate for night and week-end duty than was requested by Mental Health (\$195 for a fifteen-hour week-night shift and \$156 for a twelve-hour shift on week-ends as opposed to the \$100 per shift requested by the Agency) because of the undesirability of this type of duty and the additional administrative responsibilities involved. Mr. Mack noted that the proposed rates are based on the average rate of \$13 per hour for Physician I's in the Department and that the \$100 per shift rate would represent an hourly rate lower than the minimum for the Physician I class. Mr. Mack also pointed out that the Personnel Division does not believe that the two administrative physicians who are line items in the Appropriation Act are eligible to receive payments for night or week-end duty.

Dr. Hall pointed out that the administrative officer of the day/night has administrative responsibility for five of the Department's Institutions and that the same payment problem pertains to those physicians who serve as the medical officer of the day/night at five of the Agency's several institutions.

Dr. Jack Mullins, Director of the State Personnel Division, indicated that, while his conservative nature led him initially to oppose the increase,

he recommends approval of the rates described by Mr. Mack because the pay is not for "on call" duty but is instead for work performed in the various institutions. Dr. Mullins also pointed out that the legality of payments to the two staff physicians who serve as administrative officer of the day/night and who appear as line items in the Appropriation Act is questionable.

Following a brief discussion, upon a motion by Mr. Patterson, the Budget and Control Board without objection approved the payment to staff physicians of the Department of Mental Health who serve as the administrative officer of the day/night or as the medical officer of the day/night at the rate of \$195 per night for a fifteen-hour shift for week-night duty or at the rate of \$156 for a twelve-hour shift on week-ends, as recommended by the State Personnel Division. The motion also included a recommendation that the necessary changes be made so as to permit the making of these payments to the two line-item administrative physician positions for service as the administrative officer of the day/night.

Information relating to this matter has been retained in these files and is identified as Exhibit XIII.

STATE PERSONNEL DIVISION - NEW POSITIONS FOR DEVELOPMENT OF EMPLOYEE INSURANCE DATA BASE - Dr. Jack Mullins, Director of the State Personnel Division, advised the Budget and Control Board that the Free Conference Report on the 1977-78 Appropriation Bill provides \$300,000 for the development of the employee insurance data base rather than the \$400,000 which had been included in the Bill previously. Dr. Mullins also indicated that, although the agenda material indicates that the Personnel Division is requesting approval of eight new positions for this activity, his purpose in bringing the item to the Board is to advise that the annualized salary and fringe benefit costs of these new personnel are estimated at \$101,892. (The positions were approved by the Budget and Control Board at its March 17, 1977 meeting.) Dr. Mullins noted that the \$300,000 provided may not be sufficient and he stressed the

importance of filling all but some of the computer-related positions by July 1, 1977 at the latest.

Upon a motion by Senator Dennis, seconded by Mr. Patterson, the Budget and Control Board reaffirmed its prior approval of the new positions required for the development for the employee insurance data base.

Information relating to this matter has been retained in these files and is identified as Exhibit XIV.

FUTURE MEETING - The Budget and Control Board agreed to hold its next meeting at 2:00 p.m., June 22, 1977.

EXECUTIVE SESSION - State Auditor Putnam announced that two contractual matters, two personnel matters and an administrative briefing on a pending bill had been proposed for consideration in Executive Session and Governor Edwards suggested that a third contractual item be added. The Budget and Control Board without objection agreed to consider these matters in Executive Session whereupon Governor Edwards declared the meeting to be in Executive Session.

RATIFICATION OF EXECUTIVE ACTIONS - Following the Board's consideration of Executive Session items, Governor Edwards declared the meeting to be in open session and announced that the Budget and Control Board had taken the following actions while in Executive Session:

(1) Deferred action on a teacher pay plan for the School for the Deaf and the Blind pending possible action on this subject by the General Assembly;

(2) Approved the award of a lease/purchase contract for an IBM 370/158 computer for the centralized payroll/personnel system to ITEL, Inc. after rescinding the award made on April 20, 1977 to Continental Information Systems, Inc.;

(3) Approved the selection of and the award of a contract to Information Science, Inc. for the installation of a payroll/personnel system

importance of filling all but some of the computer-related positions by July 1, 1977 at the latest.

Upon a motion by Senator Dennis, seconded by Mr. Patterson, the Budget and Control Board reaffirmed its prior approval of the new positions required for the development for the employee insurance data base.

Information relating to this matter has been retained in these files and is identified as Exhibit XIV.

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(3) Approved the selection of and the award of a contract to Information Science, Inc. for the installation of a payroll/personnel system

at a price not to exceed \$225,112;

(4) Received as information an administrative briefing on the projected impact of S.436 relating to the inclusion of all county employees in the State health insurance program;

(5) Appointed Mrs. Sherral Brown Crawford and Mr. Billy K. Jones to three-year terms on the State Employee Grievance Committee; and

(6) Approved, in concept, the acquisition of the Boylston House and Gardens properties in the Mansion Complex area.

CONSULTANT SERVICES CONTRACT - DOA/OFFICE OF STATE PLANNING -

The Budget and Control Board without objection agreed to add to the present agenda the consideration of a consultant contract in the amount of \$25,000, from Federal funds, proposed for execution with the Office of State Planning by the Division of Administration. Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Budget and Control Board approved the referenced contract.

Information relating to this matter has been retained in these files and is identified as Exhibit XV.

The meeting was adjourned at 5:30 p. m.

STATE BUDGET AND CONTROL BOARD

POLL OF May 24, 1977

EXHIBIT I

5/24/77

POLL ITEM NUMBER 1

5/29/77 - REVISED TO ADD CONTRACTS
4, 5 AND 6 TO ATTACHMENT

Agency:

Various (please refer to Attachment)

Subject:

Consultant Services Contracts

(Particular attention is called to the first contract listed on the Attachment.)

Board Action Requested:

Approve, pursuant to proviso in 1976-77 Appropriation Act, Part I, Section 13, Pages 44-45.

Vote Of Board Member: (Please indicate by initialing appropriate line below.)

_____ I approve of the above action.

_____ I disapprove of the above action.

_____ Hold for regular meeting.

Attachments:

List of contracts proposed for approval plus "Report on Consultant" forms.

5/24/77

CONSULTANT SERVICE CONTRACTS - \$ 10,000 AND OVER

AGENCY/CONSULTANT	MAXIMUM DOLLARS	SOURCE OF FUNDS	TIME PERIOD	PURPOSE
1. UNIVERSITY OF SOUTH CAROLINA/ Dr. William H. Patterson	\$15,575	State	7/1/77 - 10/31/77	To act as a consultant on a temporary basis, in lieu of a permanent University President, until such time as a permanent President has been chosen. Board of Trustees has requested that Dr. Patterson remain in this capacity for a period not to exceed four months. He will serve about 19 working days per month.
2. DEPARTMENT OF ARCHIVES & HISTORY/ Hartzog, Lader & Richards	\$10,012.40	Federal	3/17/77 - 9/15/77	To establish and protect, through the acquisition of conservation easements, a Conservation District that will include the Ashley River and the Ashley River Road.
3. DIVISION OF ADMINISTRATION (a) Stephen Carter & Associates	\$20,000	1/3 State 2/3 Federal	4/18/77 - 6/30/77	To prepare a State Housing Element (required by DHUD of all grantee agencies)
(b) Division of Research & Statistical Services	\$38,000	Federal	7/1/76 - 6/30/77	To "construct a detailed simultaneous energy impact model of South Carolina..."
(c) Reorganization Commission	\$10,000 increase (to \$16,880)	1/3 State 2/3 Federal	2/18/77 - 6/30/77	To provide technical assistance in Statewide reorganization of State Government structure.
*4. DEPT. OF HEALTH & ENVIRONMENTAL CONTROL/ Locke & Robison	Est. \$13,500 (30% of anticipated Comm'r. salary)	State	Estimated between 6 & 12 months	To assist DHEC Board in the selection of a Commissioner to succeed Dr. E. Kenneth Aycock.
*5. UNIVERSITY OF SOUTH CAROLINA/ Dr. George W. Bunch, Jr.	\$1,000 per month	90% Federal 10% State	6/1/77 until permanent Chairman is named	To assist Dean of Medical School develop Dept. of Surgery and to serve as acting Chairman of this Department.
*6. EDUCATIONAL TELEVISION COMMISSION/ Educational Broadcasting Corp.	\$20,000	Spoletto Grant	5/15/77 - 6/15/77	To provide services of David Griffiths, co-producer; Sam Paul, production assistant; Wayne Grennier, engineering consultant, and other production assistance for "The Consul."
* Added by 5/23/77 revision				

5/24/77

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* Added by 5/23/77 revision				

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STATE AUDITOR'S OFFICE

REPORT ON CONSULTANTS

Name of State Agency: UNIVERSITY OF SOUTH CAROLINA

Date of Report: May 2, 1977 Prepared by: B. A. Daetwyler

Name of Consultant or Firm: Dr. William H. Patterson

Address of Consultant or Firm: President's Office, University of South Carolina

Terms of Consultant Contract:

Beginning Date: July 1, 1977 Ending Date October 31, 1977

Rate of Pay: \$ 200 per day; Maximum under this contract: \$ 15,575

Source of Funds: State (100%); (X); (X).

Purpose or Goal of Consultant:

To act as Consultant on a temporary basis, in lieu of a permanent University President, until such time as a permanent President has been chosen. The University of South Carolina Board of Trustees has requested that Dr. W.H. Patterson remain in this capacity for this interim period but not to exceed four months. He will serve as consultant approximately 19 working days per month.

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes _____ No X

If yes, How many Bids or Proposals were Received? _____

STATE AUDITOR'S OFFICE

REPORT ON CONSULTANTS

Name of State Agency: South Carolina Department of Archives and History

Date of Report: April 27, 1977 Prepared by: Mildred Berliner, Historic Preservation
Bookkeeper

Name of Consultant or Firm: Hartzog, Lader & Richards

Address of Consultant or Firm: P. O. Box 6141, Hilton Head Island, S. C. 29928

Terms of Consultant Contract:

Beginning Date: March 17, 1977 Ending Date: September 15, 1977

Rate of Pay: \$10,012.40 (Paid from federal funds specified for Historic Preservation Survey & Planning work of this type. No state funds are involved.)

Purpose or Goal of Consultant:

The purpose of this project, undertaken at the request of the Drayton Hall Council, and with the aid of the National Trust for Historic Preservation and the South Carolina Heritage Trust, is to establish and protect, through the acquisition of conservation easements, a Conservation District that will include the Ashley River and the Ashley River Road.

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes _____

No _____

If yes, How many Bids or Proposals were Received? _____

The National Trust for Historic Preservation selected consultants considered most qualified for this specialized type work; the choice was approved by the Drayton Hall Council composed of representatives of the Trust, the State of South Carolina and Historic Charleston Foundation.

This project has been discussed with the Governor and is being discussed with the Charleston legislative delegation.

Charles S. Leg
Director

639

2

STATE AUDITOR'S OFFICE

70556

REPORT ON CONSULTANTS

Name of State Agency: Division of Administration - Community Development

Date of Report: 4/27/76 Prepared by: Paul Tsalapatas

Name of Consultant or Firm: Stephen Carter & Associates

Address of Consultant or Firm: 2221 Devine Street, Suite 318, Columbia, S. C. 29205

Terms of Consultant Contract:

Beginning Date: 4-18-77 Ending Date: 6-30-77

Rate of Pay: \$ _____ per _____; Maximum under this contract: \$ 20,000.00

Source of Funds: 6,667 (1/3 %); 13,333 (2/3 %); _____ (%)
(State) (Federal) (Other)

Purpose or Goal of Consultant:

South Carolina State Housing Element

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes X No _____

If yes, How many Bids or Proposals were Received? 4

700

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70952

STATE AUDITOR'S OFFICE

REPORT ON CONSULTANTS

Name of State Agency: South Carolina Energy Management Office

Date of Report: May 3, 1977 Prepared by: Dennis Black

Name of Consultant or Firm: Division of Research and Statistics, S. C. Budget & Control Board

Address of Consultant or Firm: 1028 Sumter Street, Suite 201, Columbia, S. C. 29201

Terms of Consultant Contract:

Beginning Date: July 1, 1976 (initials) Ending Date: June 30, 1977 (initials)

Rate of Pay: \$ _____ per _____; Maximum under this contract: \$ 38,000

Source of Funds: _____ (%); \$38,000 (100%); _____ (%).
(State) (Federal) (Other)

Purpose or Goal of Consultant:

The purpose of the South Carolina Energy and Resources Impact Options (SCENARIO) Model project is to construct a detailed simultaneous energy impact model of South Carolina which will: 1) estimate demand for various competing energy sources, 2) quantify the impact on the South Carolina economy of alternative Federal energy policies and national energy supply and price assumptions and 3) serve as a tool for the Governor and the State's Energy Management officials in decision making and in choosing among alternative policies to deal with the immediate and longterm effects on the economy of South Carolina of: a) energy shortages, b) national energy policies, c) alternative energy supplies and d) maximization of sector payrolls and minimization of sector unemployment.

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes _____ No X

If yes, How many Bids or Proposals were Received? _____

701

3 (b)

STATE AUDITOR'S OFFICE

REPORT ON CONSULTANTS

Name of State Agency: Office of the Governor - Division of Administration

Date of Report: 4-11-77 Prepared by: Paul Tsalapatas

Name of Consultant or Firm: South Carolina Reorganization Commission

Address of Consultant or Firm: 6th Floor - Bankers Trust Towers

Terms of Consultant Contract:

Beginning Date: Feb. 18, 1977 Ending Date: June 30, 1977

Rate of Pay: \$ _____ per _____; Maximum under this contract: \$ 16,880.00

Source of Funds: 5,626 (1/3 %); 11,254 (2/3 %); _____ (%).
(State) (Federal) (Other)

Purpose or Goal of Consultant: Technical Assistance in Statewide
Reorganization of State Governmental Structure

Original Contract:	6,880.00
Amended for Increased Funding:	10,000.00
Amended Total:	\$16,880.00

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes _____ No X

If yes, How many Bids or Proposals were Received? _____

702 3(c)

MCI



Bill,
Special order of business
for S.C. Bd
5/24/77
WTF

BOARD MEMBERS

- Lachlan L. Hyatt, Chairman
- William M. Wilson, Vice-Chairman
- I. DeQuincey Newman, Secretary
- W. A. Barnette, Jr.
- Leonard W. Douglas, M.D.
- J. Lorin Mason, Jr., M.D.
- William C. Moore, Jr., D.M.D.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

E. KENNETH AYCOCK, M.D., M.P.H., COMMISSIONER
J. MARION SIMS BUILDING — 2600 BULL STREET
COLUMBIA, SOUTH CAROLINA 29201

May 20, 1977

Please reply to:

P. O. Box 4088
Spartanburg, SC 29303

Honorable William T. Putnam,
SC State Auditor
Secretary, Budget & Control Board
Post Office Box 11333
Wade Hampton Office Bldg.
Columbia, SC 29211

Dear Mr. Putnam:

Our Department has entered into a Contract with Locke & Robison, Suite 3145, #1 NCNB Plaza, Charlotte, NC 28280, a personnel consulting firm, to assist the Board in making the finest selection possible for a Commissioner to succeed Dr. E. Kenneth Aycock. We made it clear that this Contract was subject to approval of the Budget and Control Board.

The fee for this service is 30 percent of the anticipated annual salary, and for Contract purposes only, we have assumed a salary of \$45,000, which would make the fee, based on this assumption, \$13,500.

We have been advised that these funds are available within our budget, but under no circumstances, do we want to proceed without your approval and direction as to the accountability and source of funds for this fee.

I am sure that the Board appreciates the urgency of this matter, and I would appreciate your advising me at the earliest possible time when you have taken action on this request.

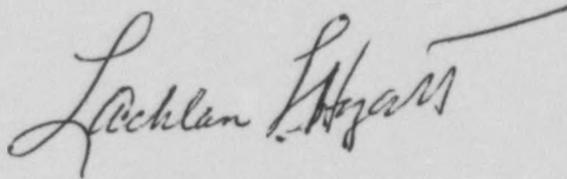
With kindest regards and best wishes to each of you.

703

4

Honorable William T. Putnam
Page Two
May 20, 1977

Sincerely,

A handwritten signature in cursive script that reads "Lachlan L. Hyatt". The signature is written in dark ink and is positioned above the typed name.

LACHLAN L. HYATT, Chairman

LLH/cs

cc: Governor James B. Edwards, Chairman
Hon. Earle Morris
Hon. Grady Patterson
Senator Rembert C. Dennis, home and State office
Senator Tom G. Mangum, home and State office

704

4

STATE AUDITOR'S OFFICE

REPORT ON CONSULTANTS

Name of State Agency: University of South Carolina

Date of Report: May 20, 1977 Prepared by: B. A. Daetwyler

Name of Consultant or Firm: Dr. George W. Bunch, Jr.

Address of Consultant or Firm: 1400 Barnwell Street, Columbia, S. C.

Terms of Consultant Contract:

Beginning Date: June 1, 1977 Ending Date Until permanent Chairman of Department of Surgery is found

Rate of Pay: \$ 1,000 per month; Maximum under this contract: \$ 12,000

* Source of Funds: Veterans Admin (90 %); State Apprpr. (10 %); (%):

Purpose or Goal of Consultant: Until a permanent Chairman of the USC Medical School Department of Surgery is found it is requested that Dr. George W. Bunch, Jr. be retained in an acting capacity in order to assist the Dean in a continuing effort to develop the Department of Surgery. He will spend approximately five hours per week in this activity as acting head and consultant to the Dean of the Medical School.

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes _____ No x

If yes, How many Bids or Proposals were Received? _____

* After October 1, 1977, the V. A. portion will be 80% and State Appropriation 20%.

REPORT ON CONSULTANTS

RETURN TO J. T. KARR

Name of State Agency: South Carolina Educational Television Commission

Date of Report: May 19, 1977 Prepared by: Charles S. Morris

Name of Consultant or Firm: Educational Broadcasting Corp.

Address of Consultant or Firm: 356 West 58th St., New York, N.Y. 10019

Terms of Consultant Contract:

Beginning Date: May 15, 1977 Ending Date June 15, 1977

Rate of Pay: \$ 20,000 per contract; Maximum under this contract: \$ 20,000

Source of Funds: Spoletto Grant (100%); (%); (%).

Purpose or Goal of Consultant:

Provide services of David Griffiths, co-producer; Sam Paul, production assistant; Wayne Grennier, engineering consultant and other production assistance for "The Consul".

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes _____ No X

If yes, How many Bids or Proposals were Received? _____

EXHIBIT II
5/24/77

STATE BUDGET AND CONTROL BOARD

POLL OF May 24, 1977

POLL ITEM NUMBER

2

Agency: Department of Mental Health

Subject: Easement and right-of-way to City of Columbia

The Department of Mental Health has approved the granting of an easement and right-of-way to the City of Columbia for the purpose of constructing and maintaining a water line which will serve Department facilities in the Farrow Road area.

Board Action Requested:

Acquiesce and concur with Department of Mental Health grant of the referenced easement and right-of-way, pursuant to Code Section 1-493.

Vote Of Board Member: (Please indicate by initialing appropriate line below.)

_____ I approve of the above action.
_____ I disapprove of the above action.
_____ Hold for regular meeting.

Attachments:

Price 4/27/77 letter to Attorney General's Office plus easement.



For: Mr. Putman - State Auditor

South Carolina Department of Mental Health

P.O. Box 485 / 2414 Bull Street / Columbia, South Carolina 29202 / (803) 758-8090

William S. Hall, M.D.
State Commissioner of Mental Health

April 27, 1977

Attorney General's Office
P. O. Box 11549
Columbia, S. C. 29211

Dear Sir:

I would appreciate your review, subsequent comments and approval of the easement enclosed herewith. After your approval, I would appreciate your forwarding said document to Mr. W. T. Putman, State Auditor and Secretary of the Budget and Control Board for the Board's concurrence and acquiescence in compliance with Section 1-49.3, Code of Laws of South Carolina (1962), 1973, Cum Supplement.

Sincerely,

WILLIAM S. HALL, M. D.
STATE COMMISSIONER OF MENTAL HEALTH

BY: *Robert B. Price*
Robert B. Price, P. E.
Chief of Engineering and Planning

RBP/rsh

cc: Mr. W. T. Putman



STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) EASEMENT

In consideration of the sum of One (\$1.00) Dollar to it in hand paid by The City of Columbia, South Carolina, receipt of which is hereby acknowledged, It, State of South Carolina, Department of Mental Health, does hereby grant unto the said The City of Columbia, South Carolina, its successors or assigns, an easement and right-of-way 15 feet in width, with an additional width of 25 feet for the construction purposes, to construct, operate and maintain together with the right of ingress and egress at all times for the purposes of constructing, operating, and maintaining a water main and with the right to remove shrubbery, trees and other growth from the right-of-way and construction area provided that the property will be restored as nearly as practicable to its original condition upon completion of the construction and the damaged shrubbery and trees will be replaced with the same variety from nursery stock of a practicable size, said easement and right-of-way to run through the property which it owns or in which it has an interest, situate, lying and being on the north side of Hinton Street and west of Farrow Road in the County of Richland, State of South Carolina, being referred to as lot 4, block 1, tax map sheet 450, on tax maps prepared by the Richland County Tax Assessor's Office, dated LR 1274.

Beginning at a point approximately thirty-four (34) feet north of the intersection at the centerline of Hinton Street and Farrow Road and consisting of a strip fifteen (15) feet, more or less, in width, extending in a generally northeasterly direction parallel and adjacent to the eastern property line of lot 4, block 1, tax map sheet 450, and the western right-of-way line of Farrow Road for a distance of approximately eight hundred ninety five (895) feet.

Also, beginning at a point along the common property line of lot 1, block 2, tax map sheet 450, and lot 4, block 1, tax map sheet 450, where the centerline is parallel and twenty two and five tenths (22.5) feet, more or less, northwest of the western right-of-way line of Farrow Road and consisting of a strip fifteen (15) feet, more or less, in width, extending in a generally northeasterly direction for a distance of approximately nine hundred eighteen and five tenths (918.5) feet, to turn and intersect the western right-of-way line of Farrow Road.

The line along which the proposed water main is to be constructed shall be as shown and more clearly delineated on a plat of right-of-way to be obtained for construction of the Farrow Road water main, dated June 2, 1976, prepared by the Department of Engineering, City of Columbia, and being on file in the office of the City Engineer, Columbia, South Carolina, under file reference 13-C-87.

TO HAVE AND TO HOLD the aforesaid rights to the grantee, its successors and assigns, as aforesaid.

IN WITNESS WHEREOF, it has hereunto set its hands and seals this 26th day of April, in the year of our Lord, One Thousand Nine Hundred and Seventy Seven.

WITNESSES:

STATE OF SOUTH CAROLINA
DEPARTMENT OF MENTAL HEALTH

Theresa D. Davis

William S. Hall

William S. Hall, M. D.
State Commissioner of Mental Health

Linda C. Hasty

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

PERSONALLY APPEARED before me Theresa D. Davis
and made oath that she saw the within named William S. Hall, M. D., State Commissioner of Mental Health, State of South Carolina, Department of Mental Health, sign, seal and as his act and deed deliver the within easement on behalf of and as the deed of the State of South Carolina and that she with Linda C. Hasty witnessed the execution thereof.

Theresa D. Davis

SWORN to before me this
26th day of April, 1977.

P. G. Reeves, Jr. (L.S.)
Notary Public of South Carolina

Expire 12-31-80

APPROVED:

DANIEL R. McLEOD
ATTORNEY GENERAL

BY: Raymond G. Hallford
Senior Assistant
Attorney General

STATE BUDGET AND CONTROL BOARD

POLL OF May 24, 1977

EXHIBIT III
5/24/77

POLL ITEM NUMBER 3

Agency:

University of South Carolina

Subject: Selection of on-call engineering consultants

USC has selected the following firms, in order of preference, for on-call engineering services for a two-year period after following the required selection procedure:

A. Central Energy Plants, etc.

- (1) Bruce Flemming & Associates
- (2) Enwright Associates; and
- (3) W. E. Gilbert & Associates

B. Building Mechanical Systems

- (1) Durlach, O'Neal, Jenkins & Associates
- (2) Felkel & Hastings
- (3) Harold Swygert & Associates

C. Underground Electrical Distribution

- (1) Southeastern Consulting Engineers
- (2) Frederick A. Smith Engineers
- (3) Tectonics Engineering Consultants

D. Secondary Electrical Systems

- (1) John C. Evans, Jr.
- (2) Holiday Coleman/Williams
- (3) Buford Goff & Associates

Board Action Requested:

Approve selection of first-named firm in each of the referenced four categories, pursuant to Code Section 1-453 through 1-460.

Vote Of Board Member: (Please indicate by initialing appropriate line below.)

_____ I approve of the above action.

_____ I disapprove of the above action.

_____ Hold for regular meeting.

Attachments:

Brunton 5/18/77 letter to McPherson plus attachments



cc: Mr. W. S. Turbeville

UNIVERSITY OF SOUTH CAROLINA
COLUMBIA, S. C. 29208

DIVISION OF OPERATIONS

May 18, 1977

Mr. John A. McPherson, Jr.
Chief Engineer
State Auditor's Office
P. O. Box 11333
Columbia, South Carolina 29211

RE: Engineering Consultants

Dear Mr. McPherson:

For several years, the University has employed the services of consulting engineers to help us analyze and modify our existing campus electrical and mechanical systems. In addition, to help on changes to our rather complex systems, we often also have to call upon consultants for emergency help when systems break down.

Our consulting needs fall in four different areas. While several consulting firms offer services in more than one area, we have purposely tried to have different firms for each of our different problems. We also like to employ these consultants for two-year periods.

In accordance with current procedures, we therefore request Budget and Control Board approval for the following consultants:

Central Energy Plants and Distribution of Steam and Chilled Water

① Bruce Flemming and Associates, Columbia, South Carolina

Building Mechanical Systems

② Durlach, O'Neal, Jenkins and Associates, Columbia, South Carolina

Underground Electrical Distribution Systems

③ Southeastern Consulting Engineers, Charlotte, North Carolina

Secondary Electrical Systems

④ John C. Evans, Jr., Columbia, South Carolina

Attached to this letter for each of the above requests are the following:

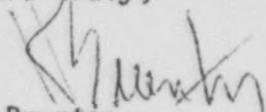
- a. Copy of advertisement for bids
- b. State Auditor's Office Report on Consultants, including a list of all the consultants interviewed and a priority listing of the top three.

Mr. John A. McPherson, Jr.
May 18, 1977
Page Two

- c. A letter indicating proposed charges and arrangements which we would use as the basis of a contract.

Please let me know if I can furnish any further information or provide any other background.

Yours truly,


H. Brunton
Vice President - Operations

HB/mf

Enclosures

STATE AUDITOR'S OFFICE

REPORT ON CONSULTANTS

①

Name of State Agency: University of South Carolina

Date of Report: April 5, 1977 Prepared by: W. S. Turbeville

Name of Consultant or Firm: Bruce Flemming and Associates, Inc.

Address of Consultant or Firm: Columbia, South Carolina 29205

Terms of Consultant Contract:

Beginning Date: May 1, 1977 Ending Date April 30, 1979

Rate of Pay: \$ See attached schedule per ; Maximum under this contract: \$ 10,000 yr.
20,000 2 yrs.

Source of Funds: A (100%); (Z); (Z).

Purpose or Goal of Consultant: To provide consulting services to the Physical Facilities and Campus Planning on upgrading central energy plant equipment along with steam and chilled water distribution systems as required to maintain efficient operations.

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes XX No

If yes, How many Bids or Proposals were Received? See attached list.

RECOMMENDED ENGINEERING CONSULTANTS

CENTRAL ENERGY PLANTS AND DISTRIBUTION OF STEAM AND CHILLED WATER

1. Bruce Flemming & Associates, Columbia, South Carolina
2. Enwright Associates, Columbia, South Carolina
3. W. E. Gilbert & Associates, Greenwood, South Carolina

Others Interviewed

Buford Goff and Associates, Columbia, South Carolina
Durlach, O'Neal, Jenkins & Associates, Columbia, South Carolina
Energy Conservation Systems, Columbia, South Carolina
Felkel & Hastings, Columbia, South Carolina
Frederick A. Smith Engineers, Charleston, South Carolina
Harold Swygert and Associates, Columbia, South Carolina
John Evans, Jr., Columbia, South Carolina
Ray Rogers, Columbia, South Carolina
Southeastern Consulting Engineers, Charlotte, North Carolina
Tectonics Engineering Consultants, Columbia, South Carolina
Wilbur Smith & Associates, Columbia, South Carolina



BRUCE FLEMMING & ASSOCIATES, INC.

ENGINEERS — PLANNERS

2801 DEVINE STREET

PHONE (803) 799-8095

COLUMBIA, SOUTH CAROLINA 29205

April 4, 1977

Mr. W.S. Turbeville
Assistant Vice President
Physical Facilities & Campus Planning
University of South Carolina
Columbia, South Carolina 29208

RE: Charges for Engineering Services
Central Energy Plants & Distribution Systems
University of South Carolina

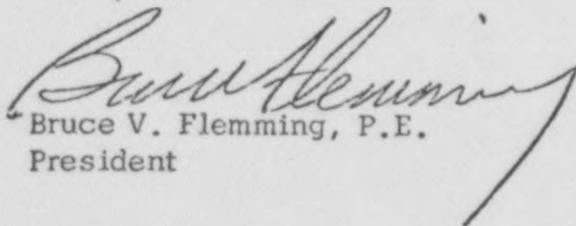
Dear Mr. Turbeville:

The following are charges for engineering services on the above referenced project:

Bruce V. Flemming	\$25.00/hour
Design Professional	\$20.00/hour
Draftsman	\$12.50/hour
Secretarial	\$ 8.00/hour

If there is any additional information required, please contact this office.

Yours very truly,


Bruce V. Flemming, P.E.
President

STATE AUDITOR'S OFFICE

REPORT ON CONSULTANTS

2

Name of State Agency: University of South Carolina

Date of Report: April 5, 1977 Prepared by: W. S. Turbeville

Name of Consultant or Firm: Durlach, O'Neil, Jenkins and Associates

Address of Consultant or Firm: Columbia, South Carolina 29205

Terms of Consultant Contract:

Beginning Date: May 1, 1977 Ending Date April 30, 1979

Rate of Pay: \$ See attached schedule per ; Maximum under this contract: \$ 15,000 yr
30,000-2 yrs.

Source of Funds: A (100%); (%); (%).

Purpose or Goal of Consultant: To provide consulting services on building HVAC systems as related to space modifications and upgrading of existing systems as required, to assist in preparation of plans and bid documents for bidding projects.

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes XX No

If yes, How many Bids or Proposals were Received? See attached list.

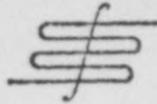
RECOMMENDED ENGINEERING CONSULTANTS

BUILDING MECHANICAL SYSTEMS

1. Durlach, O'Neal, Jenkins & Associates, Columbia, South Carolina
2. Felkel & Hastings, Columbia, South Carolina
3. Harold Swygert and Associates, Columbia, South Carolina

Others Interviewed

Bruce Flemming & Associates, Columbia, South Carolina
Buford Goff and Associates, Columbia, South Carolina
Energy Conservation Systems, Columbia, South Carolina
Enwright Associates, Columbia, South Carolina
Frederick A. Smith Engineers, Charleston, South Carolina
John Evans, Jr., Columbia, South Carolina
Ray Rogers, Columbia, South Carolina
Southeastern Consulting Engineers, Charlotte, North Carolina
Tectonics Engineering Consultants, Columbia, South Carolina
W. E. Gilbert & Associates, Inc., Greenwood, South Carolina
Wilbur Smith & Associates, Columbia, South Carolina



DURLACH, O'NEAL, JENKINS & ASSOCIATES

Consultant Engineers

2110 SANTEE AVENUE — TELEPHONE (803) 765-2388
COLUMBIA, S. C. 29205

NEW PHONE
771-7000

March 23, 1977

Mr. W. S. Turbeville
Assistant Vice President
Physical Facilities and Planning
University of South Carolina
Columbia, S. C. 29208

Dear Mr. Turbeville:

I enjoyed meeting with you and Mr. Shelley last week to discuss matters of mutual interest and the possibility of our firm doing some work for the University.

Should we succeed in procuring work at the University, I assure you we will spare no effort to respond promptly to your needs and provide sound engineering service.

Our hourly rates are listed below:

Professional Engineer	\$25.00 per man/hour
Technician-Draftsman	15.00 per man/hour
Clerk-typist	8.00 per man/hour

In addition we require reimbursement of out-of-pocket expenses such as for long distance telephone calls, legal advertising charges, duplicating, and cost of travel outside the Columbia area when this is required by a client.

If we can be of service, please let me know.

Yours very truly,

Marcus R. Durlach, Jr., P.E.

MRD/mk

719

STATE AUDITOR'S OFFICE

REPORT ON CONSULTANTS

③

Name of State Agency: University of South Carolina

Date of Report: April 5, 1977 Prepared by: W. S. Turbeville

Name of Consultant or Firm: Southeastern Consulting Engineers

Address of Consultant or Firm: Charlotte, North Carolina

Terms of Consultant Contract:

Beginning Date: May 1, 1977 Ending Date April 30, 1979

Rate of Pay: \$ See attached per ; Maximum under this contract: \$ 8,000 yr.
16,000-2 yrs.

Source of Funds: A (100%); (%); (%).

Purpose or Goal of Consultant: To provide consulting service on underground electrical distribution systems for the upgrading of the total system as required.

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes XX No

If yes, How many Bids or Proposals were Received? See attached.

RECOMMENDED ENGINEERING CONSULTANTS
UNDERGROUND ELECTRICAL DISTRIBUTION SYSTEMS

1. Southeastern Consulting Engineers, Charlotte, North Carolina
2. Frederick A. Smith Engineers, Charleston, South Carolina
3. Tectonics Engineering Consultants, Columbia, South Carolina

Others Interviewed

Bruce Flemming & Associates, Columbia, South Carolina
Buford Goff and Associates, Columbia, South Carolina
Durlach, O'Neal, Jenkins & Associates, Columbia, South Carolina
Energy Conservation Systems, Columbia, South Carolina
Enwright Associates, Columbia, South Carolina
Felkel & Hastings, Columbia, South Carolina
Harold Swygert and Associates, Columbia, South Carolina
John Evans, Jr., Columbia, South Carolina
Ray Rogers, Columbia, South Carolina
W. E. Gilbert & Associates, Inc., Greenwood, South Carolina
Wilbur Smith & Associates, Columbia, South Carolina

SOUTHEASTERN
CONSULTING ENGINEERS, INC.

600 MINUET LANE
CHARLOTTE, N. C. 28210
P. O. BOX 15434
PHONE 523-6045

May 16, 1977

University of South Carolina
Columbia, South Carolina

Attention: Mr. W. S. Turbeville
Assistant Vice President
Physical Facilities and Campus Planning

Gentlemen:

This is to confirm and supplement the writer's recent conversation with your Mr. Turbeville during which you were advised that we would be delighted to provide any miscellaneous engineering services required to supplement the activities of your electrical department personnel as the need may occur.

Our compensation for the aforementioned services shall be in accordance with the following schedule of per diem rates plus any travel, subsistence and printing expenses incurred in the University's behalf.

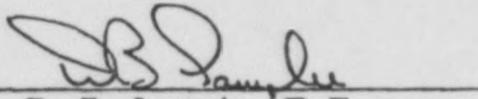
<u>Name</u>	<u>Title</u>	<u>Per Diem Rate</u>
D. B. Lampke, P.E.	Design Engineer	\$286.80
Ray D. Cohn, P.E.	Design Engineer	244.10
W. H. Little, Jr., P.E.	Design Engineer	201.50
W. F. Funderburk, P.E.	Design Engineer	185.10
H. M. Taylor, P.E.	Associate Engineer	158.80
G. L. Beckham, EIT	Associate Engineer	137.50
G. N. Drum	Associate Engineer	130.40
J. F. Powell	Field Engineer	210.90
J. L. Blair	Field Engineer	170.70
W. L. Pryce	Field Engineer	75.80
R. B. Baucom	Draftsman	106.70
D. C. Gaddy	Draftsman	73.50
F. Schell	Stenographer	96.00
E. Henriksen	Stenographer	49.30

The preceding schedule shall remain in effect until April 30, 1979 and all charges for personnel will be for a full day except where circumstances permit us to re-assign the employee on other work in which event billing will be for a half day. All per diem rates quoted above are for weekdays, Monday through Friday, except where Holidays occur on these days. For Saturdays, Sundays and Holidays one and one-half (1-1/2) time the appropriate per diem rate will be charged.

Very truly yours,

SOUTHEASTERN CONSULTING ENGINEERS, INC.

By


D. B. Lampke, P.E.

DBL:fs

STATE AUDITOR'S OFFICE

REPORT ON CONSULTANTS

④

Name of State Agency: University of South Carolina

Date of Report: April 5, 1977 Prepared by: W. S. Turbeville

Name of Consultant or Firm: John Evans, Jr.

Address of Consultant or Firm: Columbia, South Carolina 29205

Terms of Consultant Contract:

Beginning Date: May 1, 1977 Ending Date April 30, 1979

Rate of Pay: \$ See attached. per _____; Maximum under this contract: \$ 10,000 yr.
20,000-2 yrs.

Source of Funds: A (100%); _____ (%); _____ (%).

Purpose or Goal of Consultant: To provide consulting services on secondary electrical systems as they relate to modifications and upgrading of present systems to assist in evaluation of all outside campus lighting for the purpose of eliminating or adding to, as the need dictates, conduct lighting studies on existing building and make recommendations for energy savings.

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes XX No _____

If yes, How many Bids or Proposals were Received? See attached.

RECOMMENDED ENGINEERING CONSULTANTS

SECONDARY ELECTRICAL SYSTEMS

1. John C. Evans, Jr., Columbia, South Carolina
2. Holiday Coleman/Williams, Columbia, South Carolina
3. Buford Goff & Associates, Columbia, South Carolina

Others Interviewed

Bruce Flemming & Associates, Columbia, South Carolina
Durlach, O'Neal, Jenkins & Associates, Columbia, South Carolina
Energy Conservation Systems, Columbia, South Carolina
Enwright Associates, Columbia, South Carolina
Felkel & Hastings, Columbia, South Carolina
Frederick A. Smith Engineers, Charleston, South Carolina
Harold Swygert and Associates, Columbia, South Carolina
Ray Rogers, Columbia, South Carolina
Southeastern Consulting Engineers, Charlotte, North Carolina
Tectonics Engineering Consultants, Columbia, South Carolina
W. E. Gilbert & Associates, Inc., Greenwood, South Carolina
Wilbur Smith & Associates, Columbia, South Carolina

JOHN C. EVANS, JR., P.E.

3202-B MILLWOOD AVENUE
COLUMBIA, SOUTH CAROLINA 29205

OFFICE
(803) 254-0835

March 17, 1977

RESIDENCE
(803) 776-3916

Mr. W.S. Turbeville, Director
Office of Campus Planning
University of South Carolina
743 Green Street
Columbia, South Carolina 29208

Dear Mr. Turbeville:

Thank you for the reception you gave me for our interview yesterday. It was my pleasure to talk with you and Mr. Shelley again. I hope to receive your favorable consideration in the selection of the consulting engineers.

The fee schedule for my services will be as follows:

Engineering.....\$20 per man-hour
Drafting.....2.0 times payroll

Included in the above rates are incidental expenses necessary to perform the work such as office and technical supplies, local travel, typing services, and reasonable long-distance telephone expenses.

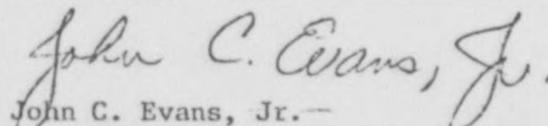
Not included in the above rates are extraneous expenses such as out-of-town travel and subsistence, large volume reproduction of blueprints and specifications, and other unusual expenses. These charges would be reimbursed by the University at my cost.

I will guarantee not to escalate these rates for the duration of the two-year contract.

If you have any questions, please call me.

Thank you and have a good day.

Yours very truly,


John C. Evans, Jr.—
Electrical Engineer

jce/efe

726

Consulting Engineer Qualification Request

The University of South Carolina requests resumes from Firms interested in providing Consulting Engineering Assistance to the Physical Facilities and Campus Planning Division for the development of plans and contract documents on renovations and modifications to existing utility systems.

Resumes will be considered in one or all of the following areas:

1. Underground electrical distribution system.
2. Secondary electrical distribution systems.
3. Central energy plants and distribution of steam and chilled water.
4. Building mechanical systems.

Resumes must be received in the office of W. S. Turbeville, Assistant Vice President of Physical Facilities and Campus Planning, University of South Carolina, 707 Green Street, Columbia, South Carolina, 29223, not later than February 15, 1977.

ADVERTISEMENT RUN IN THE STATE NEWSPAPER JANUARY 17, 1977

STATE BUDGET AND CONTROL BOARD

POLL OF May 24, 1977

POLL ITEM NUMBER

EXHIBIT IV
5/24/77
4

Agency:

Division of Motor Vehicle Management

Subject:

Motor vehicle (fleet addition) purchase requests.

Mr. Allan Spence recommends approval of the following:

(1) Department of Health and Environmental Control: purchase one 15-passenger van for patient transportation in Beaufort County. (see Enclosure 1)

(2) Department of Corrections: purchase two intermediate sedans to meet requirements of new programs and/or positions. (See Enclosures 2 and 3.)

Board Action Requested:

Approve referenced motor vehicle (fleet addition) purchase requests, as recommended by Mr. Spence.

Vote Of Board Member: (Please indicate by initialing appropriate line below.)

_____ I approve of the above action.

_____ I disapprove of the above action.

_____ Hold for regular meeting.

Attachments:

Enclosures 1, 2 and 3



RECEIVED

MAY 5 1977

DIVISION OF MOTOR
VEHICLE MANAGEMENT

BOARD MEMBERS

Lachlan L. Hyatt, Chairman
William M. Wilson, Vice-Chairman
I. DeQuincey Newman, Secretary
W. A. Barnette, Jr.
Leonard W. Douglas, M.D.
J. Lorin Mason, Jr., M.D.
William C. Moore, Jr., D.M.D.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

May 2, 1977

E. KENNETH AYCOCK, M.D., M.P.H., COMMISSIONER
J. MARION SIMS BUILDING — 2600 BULL STREET
COLUMBIA, SOUTH CAROLINA 29201

Mr. Allan J. Spence, Director
Division of Motor Vehicle Management
PO Box 633
Columbia, SC 29202

Dear Mr. Spence:

Subject: Attached correspondence on purchase of van
Low Country Health District

We are deeply concerned that the van that was ordered for the Low Country Health District has been turned down because the contract for this type vehicle has expired. It is unfortunate that the delays that occurred in securing all of the necessary approvals resulted in this disapproval.

I am hoping that some avenue still remains so that we can secure this vehicle. Funds are currently available for the purchase and it is doubtful that these funds will be available next fiscal year. Of much more importance is the fact that this vehicle is badly needed now to allow us to provide transportation to citizens who are in need of health services and who do not have access to our clinics. There is no public transportation available to these clients and it is considered urgent that we reach them for the provision of family planning services, maternity services and child health screening. Most of these clients fall in the lower socioeconomic group and cannot afford (and do not have access to) services from the private sector.

For these impelling reasons, we earnestly solicit any assistance that you can offer us in securing this vehicle.

Sincerely,

E. Kenneth Aycock, M.D., M.P.H.
Commissioner

EKA/erc
Attachments
cc: Dr. McCaleb
Mr. Seigler
Mr. Ellis

Enclosure (1)

729



BOARD MEMBERS

Lachlan L. Hyatt, Chairman
William M. Wilson, Vice-Chairman
I. DeQuincey Newman, Secretary
W. A. Barnette, Jr.
Leonard W. Douglas, M.D.
J. Lorin Mason, Jr., M.D.
William C. Moore, Jr., D.M.D.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

E. KENNETH AYCOCK, M.D., M.P.H., COMMISSIONER
J. MARION SIMS BUILDING — 2600 BULL STREET
COLUMBIA, SOUTH CAROLINA 29206

April 28, 1977

MEMORANDUM

TO: E. Kenneth Aycock, M.D., M.P.H.
Commissioner

THROUGH: Mr. Cecil Seigler
Deputy Commissioner for Administration

FROM: Tony R. Ellis, Chief
Bureau of Business Management *Tony R. Ellis*

SUBJECT: Low Country Health District Vehicle Request

RECEIVED

MAY 5 1977 *SW*

DIVISION OF MOTOR
VEHICLE MANAGEMENT

Attached is a copy of a letter from Mr. Allan Spence, Director, Motor Vehicle Management, advising me our request of a van wagon for patient transportation was not approved because the contract for this vehicle had expired. In reviewing correspondence between our offices, I note the following:

1. Requisition 1845 received in my office March 21 from Finance.
2. Mr. Reynolds attempted to reach Mr. Sineath by phone to discuss requisition from March 21 - 28.
3. Mr. Reynolds carried requisition to Dr. Aycock's office for signature March 28.
4. Received requisition from Dr. Aycock's office April 6. Mr. Reynolds was out of town with auditor.
5. Mr. Reynolds hand delivered requisition to Mr. Spence April 7.
6. Received letter dated April 8 from Mr. Spence on April 12 stating the contract expiration date was April 10 and to re-submit justification for Budget and Control Board consideration on April 20.
7. Sent letter to Mr. Spence dated April 13 requesting reconsideration as I felt there was a need for the vehicle.

Enclosure (1)

730

Page 2
MEMO TO DR. AYCOCK - VEHICLE REQUEST

April 28, 1977

In summary, I feel we should appeal this decision because the only reason given for denying our request related to contract expiration. My correspondence indicates that our request was in the proper hands for approval before contract expiration. The same justification was used each time our request was submitted to Mr. Spence. If we cannot help our staff in the field, there is no way they can accomplish their goals and objectives.

TRE:jh

CC: Mr. Cecil Seigler
Foster C. McCaleb, M.D.

REQUEST TO PURCHASE OR DISPOSE
OF STATE-OWNED VEHICLES

From: S. C. Department of Corrections

To: State Budget and Control Board
Division of Motor Vehicle Management

Post Office Box 21787

Columbia, S. C. 29221

Date: May 16, 1977

Section I

Request To Purchase

Fleet Addition Yes No

A. Type Vehicle Intermediate Body Style 4-Door Model Sedan Year 1977

B. Number Of Vehicles Owned 285 Number Leased From Other Agencies 0

C. Number Of Vehicles Assigned For Exclusive Use: 50

Number Assigned To Agency Pool: 235

D. Number Of Vehicles Authorized To Be Driven To And From Home: 50

E. This Vehicle Is To Be Assigned To: Mr. L. J. Allen, Regional Administrator, Coastal or

Agency Pool: _____
(Name and Position)

F. Annual Official Miles: 20,000

G. Funds To Purchase This Vehicle Are Available From:

State Appropriations: \$ _____ Other: \$ _____

H. Give complete justification in accordance with chapter 4, **State Motor Vehicle Management Manual**. If a fleet addition, agency director must certify that no vehicle is available to reassign to fill this need. (For multiple or fleet purchases give required information on additional sheets.)

Vehicle to be used by the newly-appointed Regional Administrator - Coastal Region who has responsibility over ten county area. Vehicle to be purchased with Federal funds by an LEAA Grant. It is urgent that the vehicle be purchased as soon as possible so that the newly appointed Regional Administrator may assume his duties. I certify that no vehicle is available to reassign to fill this need.

Section II

New (addition) vehicle request. Request For Disposal N/A

Make _____ Model _____ Body Style _____ Year _____

Serial Number _____ Total Miles To Date _____ New Cost \$ _____

Date Of Purchase _____ Present Estimated Value \$ _____

Date Last State Inspection _____ Location Of Vehicle _____

Name and telephone number of person to contact for pre-disposal inspection: _____

RECEIVED
MAY 18 1977
DIVISION OF MOTOR
VEHICLE MANAGEMENT

Hubert D. Leub
Department or Institution Head Signature

Section III

Action By Budget & Control Board

Approved _____ Disapproved _____

Date _____

Signature _____

Distribution
Original — DMVM
Copy 1 — Requesting Agency
Copy 2 — State Central Purchasing
Copy 3 — State Property Disposal

Enclosure (2)

**REQUEST TO PURCHASE OR DISPOSE
OF STATE-OWNED VEHICLES**

From: S. C. Department of Corrections
Post Office Box 21787
Columbia, S. C. 29221

To: State Budget and Control Board
Division of Motor Vehicle Management

Date: May 17, 1977

**Section I
Request To Purchase**

Fleet Addition Yes No

A. Type Vehicle Intermediate Body Style 4-Door Model Sedan Year 1977

B. Number Of Vehicles Owned 285 Number Leased From Other Agencies 0

C. Number Of Vehicles Assigned For Exclusive Use: 50

Number Assigned To Agency Pool: 235

D. Number Of Vehicles Authorized To Be Driven To And From Home: 50

E. This Vehicle Is To Be Assigned To: Ms. Judy Owens, Supt., Women's Work Release Program or
(Name and Position)
Agency Pool: _____

F. Annual Official Miles: 15,000

G. Funds To Purchase This Vehicle Are Available From:

State Appropriations: \$ Other: \$ _____

H. Give complete justification in accordance with chapter 4, **State Motor Vehicle Management Manual**. If a fleet addition, agency director must certify that no vehicle is available to reassign to fill this need. (For multiple or fleet purchases give required information on additional sheets.)

Vehicle to be used by the Superintendent of the newly created Women's Work Release Program in obtaining work for the inmates as well as other related institutional activities. I certify that no vehicle is available to reassign to fill this need.

**Section II
Request For Disposal** N/A

Make _____ Model _____ Body Style _____ Year _____

Serial Number _____ Total Miles To Date _____ New Cost \$ _____

Date Of Purchase _____ Present Estimated Value \$ _____

Date Last State Inspection _____ Location Of Vehicle _____

Name and telephone number of person to contact for pre-disposal inspection: _____

RECEIVED
MAY 18 1977

DIVISION OF MOTOR
VEHICLE MANAGEMENT
Section III
Action By Budget & Control Board

Department or Institution Head Signature

Approved _____ Disapproved _____

Date _____

Signature _____

Distribution

- Original - DMVM
- Copy 1 - Requesting Agency
- Copy 2 - State Central Purchasing
- Copy 3 - State Property Disposal

Enclosure (3)

734

DMVM Form 6-77
(Replaces DMVM Form 5-75 & 6-75)

STATE OF SOUTH CAROLINA
PURCHASING REQUISITION

Nº 38054 ✓

VENDOR CODE

VENDOR

SHIP TO:

S. C. Department of Corrections
Transportation and Communications
4344 Broad River Rd.
Columbia, S. C. 29210

Mr. Jasper

AGENCY CODE

DATE May 18, 1977

AGENCY REFERENCE NUMBER M 1983, 5-17-77

REQUIRED DELIVERY DATE _____

SEND INVOICE TO:

S. C. Department of Corrections
P.O. Box 21787
Columbia, S. C. 29221

AGENCY CODE

1107307

BUYER NO.

AGENCY ACCOUNTING INFORMATION

11000-31100-021-06041

MEMORANDA

Item No.	QUANTITY	Unit of Measure	COMMODITY CODE	DESCRIPTION	UNIT PRICE (REFERENCE)	TOTAL PRICE
1.	1.00	each	067-20	1977 Intermediate four-door passenger vehicle, sedan complete with all standard equipment as provided by State. contract #1-067-01120		

RECEIVED
MAY 18 1977
DIVISION OF MOTOR VEHICLE MANAGEMENT

REQUESTED BY:

TITLE

DATE

The undersigned certifies that the items indicated hereon are for the exclusive use of the public agency named, that they are exempt from Federal Excise Tax and if the items are used otherwise than stated hereon such facts will be reported by the undersigned to the manufacturer as required by law and that failure to do so will subject the undersigned and all guilty parties to a fine of not more than \$10,000.00 or to imprisonment for not more than five years or both, together with cost of prosecution.

WHITE COPY — PURCHASING OFFICE
BLUE COPY — AGENCY
PINK COPY — CONSIGNEE

APPROVED

William Gauler

TITLE

Purchasing Agent

5-18-77

FORM NO. 1107211-3

735

EXHIBIT V
5/24/77

STATE OF SOUTH CAROLINA) EASEMENT AND AGREEMENT FOR SEWERAGE
) LINES, STATE PARK HEALTH CENTER,
COUNTY OF RICHLAND) DHEC LABORATORY, WITH EAST RICHLAND
) COUNTY PUBLIC SERVICE DISTRICT

WHEREAS, the State of South Carolina, by and through its State Budget and Control Board, is the owner of a certain parcel of land containing 337 acres, more or less, lying at the intersection of Parklane and Farrow Roads in Richland County, known as the State Park Health Center; and

WHEREAS, the State is desirous of having a sewerage line constructed on said property to connect existing sewerage lines for the State Park Health Center sewerage lagoon to the sewerage lines of the East Richland County Public Service District; and

WHEREAS, the East Richland County Public Service District is agreeable to constructing such a line on the subject property under the express terms and conditions hereinafter set, full cost thereof being reimbursed by the State of South Carolina to East Richland County Public Service District;

NOW, THEREFORE, the State of South Carolina, by and through its State Budget and Control Board, hereinafter referred to as the "State," and the East Richland County Public Service District, its successors or assigns, hereinafter referred to as the "District," for and in consideration of the sum of One (\$1.00) Dollar and the covenants and conditions contained herein, do agree as follows:

1. That the District shall construct a sewerage line on a hereinafter granted easement across State Park Health Center property. Such sewerage line shall be constructed in accordance with the plans, specifications, and other documents prepared for that purpose by B. P. Barber and Associates, Inc., registered engineers.

2. The State will bear all costs of intergrating the sewerage system within the existing District's system to include the State's reimbursement, periodically, within thirty (30) days' of billing, all construction costs, fees of B. P. Barber and Associates, and/or other costs or consultation fees incurred by that firm, any and all attorneys' fees incurred with respect to developing and processing the contract and in time involved on the part of the District's attorneys thereafter where attorneys' fees are reasonably necessary to the effectuation of said contract and in this regard the State acknowledges that this is the first such contract entered into between the District and the State of South Carolina, thereby necessitating substantial time and effort on the parts of the District's attorneys and engineers, respectively, and in their consultations with the District and in negotiating between the District and the State regarding policy therefor with specific reference to "use equity" provisions.

3. The State or its representatives shall have the right to inspect and coordinate its efforts with the District in order to insure the workmanlike manner and timely placement of such sewerage line. This provision, however, does not in any way constitute a preemption of the State of the District's engineers as regards their usual authority and responsibilities in such project.

4. The District agrees and represents that all of its obligations herein, including construction of the sewerage line, use, and cost of construction, are in accordance with applicable laws, ordinances, documents, policies and regulations. The State agrees and represents the same relative to its obligations herein.

5. The District further agrees that upon completion of the sewerage line and in consideration of the easement granted herein that the District will provide all necessary maintenance and repair to said line to ensure its continued use and operation, consistent with the terms and conditions imposed upon the State hereinafter.

6. The State hereby grants to the District a right of entry upon the lands hereinabove described without cost to the District, for normal uses of such right of entry in operating, repairing, maintaining, replacing or changing the size of, removing pipes and/or other facilities with a right to excavate and refill ditches and to engage in such construction as is necessary to maintain the system and the District will require the right to remove trees, bushes, undergrowth and/or any such obstructions on the land hereinabove described which might interfere with its operation and maintenance of the system.

7. All conveyances of rights-of-way, easements, or rights of entry are and will be warranted by the State to be free and clear of any encumbrances which could possibly impair the District's function in operating and maintaining the system described.

8. The State, in summary, agrees that the District will bear no costs whatsoever in carrying out its responsibilities under the terms of this contract, including costs of acquiring and conveying easements, rights-of-way and ownership (including the acquisition of such necessary legal interests on land not owned by the State for purposes of constructing the line from the State's property to the nearest point of the District's present system), and if any costs are incurred by the District, including that of litigation or negotiation in obtaining compliance by the State with the terms hereof, all said costs, including

attorneys and engineers' fees, in litigation and/or consultation and negotiation, will be reimbursed by the State to the District within thirty (30) days of the billing, so long as such disbursements by the District were reasonably necessary to that purpose.

9. The State agrees that present owner of the property which is the subject of the contract and all assigns and others hereafter obtaining a legal interest in said property be legally notified by recording of this document in the Office of the Register of Mesne Conveyance for Richland County, providing notice to all having a subsequent interest therein, of encumbrances imposed upon the subject property by the terms of this instrument. The State is exclusively responsible for preventing any such encumbrance to subject property which would impair the District's use thereof as is reasonably necessary in discharging their responsibilities under this contract.

10. For and in consideration of the covenants and conditions contained herein, the State does hereby grant to the District the following interest, right-of-way, or easement:

A certain right-of-way and easement in, over, upon, under and across that certain strip or tract of land owned by the State of South Carolina near the intersection of Parklane Road and Farrow Road in the County of Richland, State of South Carolina, being more particularly described as follows:

Beginning at a point adjoining an existing sewer lagoon on the State Park property and thence running in a southerly direction to the eastern boundary line of said property, being the old location of Twelve Mile Branch, and along said Twelve Mile Branch to the southern tip of said State Park property. Said easement or right-of-way shall be across and under that strip of land above described for a width not to exceed seven and one-half (7-1/2') feet from centerline on either side of said sewerage line upon completion of construction, this seven-and-one-half-foot easement to be a permanent one consistent with District policy.

Prior to completion of said sewerage line, the District shall have a temporary easement for

construction purposes on State property for a distance of twenty-five (25') feet, from center-line on either side of said proposed line. This temporary easement shall be void and of no effect upon completion of said line.

The above described right-of-way or easement shall continue on said property so long as such constructed sewerage line is maintained and operated thereon by the District, or its successors and assigns. In the event such sewerage line shall be abandoned, become inoperable, or otherwise cease to be used, then this easement or right-of-way shall cease and be of no effect, reverting back to the State.

The above right-of-way or easement strip shall be for the purpose of the District to enter onto said property to construct, install, maintain, excavate, repair, replace or otherwise operate a sewerage line thereon.

The above easement is granted over portions of land of the State of South Carolina known as the State Park Health Center acquired by the following deeds to the State of South Carolina:

E. M. Ashford - Deed Book EJ, page 411
D. T. True - Deed Book ER, page 45
S. C. Moore - Deed Book AX, page 90
J. W. Brown - Deed Book AY, page 518

11. The low bid submitted to East Richland County Public Service District by a contractor for construction, which is the subject of this contract, is in the amount of One Hundred Three Thousand Eight Hundred Three (\$103,803.00) Dollars. If a contract is awarded to that bidder, the engineering fees (exclusive of special engineers' fees in developing this contract) will bring the total to approximately One Hundred Thirteen Thousand Eight Hundred Seventy-one (\$113,871.00). In addition to those costs will be other costs assumed by the State herein including the acquisition of easements and rights-of-way or ownership, if necessary, in property not owned by the State made necessary for the District to connect the State's system with the now existing system of the District, the State bearing all acquisition costs including litigation expenses if it must be condemned, expert testimony and attorneys' fees in litigation and/or negotiation. In addition to that present amount will be added other costs enumerated herein to include the engineers and attorneys'

fees in developing and negotiating this contract. It appears that the total cost for construction, therefore, may approximate the sum of One Hundred Twenty Thousand (\$120,000.00) Dollars but neither party is able to predict the cost of acquiring some six hundred (600') feet. The District pledges good faith and diligence in attempting to hold those costs within \$120,000 but cannot warrant the same in view of the necessity of procuring easements on land not owned by the State.

12. Attorneys' fees and engineers' fees charged to the District concerning all of their respective services rendered in this matter will be based upon the terms of the employment contracts of each respectively with the District, the State simply making reimbursement to the District for such sums as are disbursed by the District for services rendered herein pursuant to the regular contract terms of the District's professional consultants.

13. The State and District agree that the State and its agencies or institutions shall be granted free taps in perpetuity along and on said line as may be necessary for the proper utilization and operation of the facilities which are now or may hereafter be constructed on the property along which the line is constructed; provided, however, that the State shall pay the charges hereinbelow described (Use Equity Charge) and both parties hereby acknowledge the acceptability and agreement with the formulas hereinafter provided therefor.

14. The District agrees that it shall begin construction of the said line within three (3) months of the date of the filing of this contract and it is reasonably anticipated that completion shall be accomplished within 180 calendar days from the date of notice to proceed on construction, or within such other reasonable period as may be agreed to in writing

Time is of the essence in this contract based upon the State's anticipated completion date of its buildings on subject property and the District shall be liable for actual damages incurred by the State if the completion date is not met by the District due to negligence on the part of the District or its contractor.

15. It is agreed that in the event the District in the future shall request an easement, right-of-way and/or right of entry across the subject State property or trunk lines or other facilities in order to serve private residences, buildings, corporations, or any persons or entities other than the State or its agencies, the State agrees only to consider such request when made and the same, if granted, will be negotiated on a per request basis. The State assumes no obligation hereunder to make such a conveyance and simply pledges good faith to the District in considering any such future request.

USE EQUITY PURCHASE BY STATE

Inasmuch as the District possesses available capacity in its waste water treatment plant and interceptor sewers and in that the State needs an adequate waste water treatment and disposal system, a Use Equity Purchase Agreement is entered into. The rationale therefor is that the residents of the geographical boundaries of the District have paid special property taxes for 15 years which are applied to retirement of bonded indebtedness, the State being immune from such taxes and, additionally, due to

the fact that the State property to be served through this agreement lies outside of its boundaries. To not enter such an agreement would constitute an inequity against taxpayers of the District.

It is agreed that a waste water meter will be placed at the lower end of the wholly State-owned sewerage lines and the flow from the State's facilities accordingly will be recorded thereon. Operation, maintenance and replacement costs of the waste water transportation and treatment facilities will be shared by the District and the State in proportion to the State's use of the system overall.

It is agreed between the parties that the State's costs for purchasing an equity use in the system is to be determined by application of the following formula:

$$E = \frac{x}{d} C$$

where: E = Use Equity Cost (Dollars)
 x = Use Equity Capacity (MGD)
 d = Design Capacity for a Line Segment (MGD)
 C = Project Cost for a Line Segment (Dollars)

COST OF CONSTRUCTION AND UNIT CAPACITIES
 FROM SITE TO TREATMENT PLANT

(See Maps Attached as Exhibits A
 and B For Reference)

<u>Line Segment</u>	<u>Line Size</u>	<u>Capacity (MGD)</u>	<u>Cost*</u>
A-B	10"	0.72	\$ 13,200
B-C	12"	1.05	58,400
C-D	24"	4.15	134,000
D-E	30"	6.50	253,000
E-F	30"	6.50	341,300
F-G	42"	9.00	in G-H
Pump Station		9.0	191,000
G-H		9.0	565,800
Plant		5.25	520,300

* Includes Engineering.

This charge will be paid in accordance with District policy regarding time, place and manner of payment.

CHARGE FOR USE IN EXCESS OF X CAPACITY

Any use by the State per day in excess of X capacity shall be charged to the State by applying the excess flow to the same formula set out hereinabove the same to be an overuse penalty.

USER CHARGE

A User Charge shall be levied semi-annually for the purpose of operation and maintenance of the system. The charge shall be based on the cost as reflected by information possessed by the District's auditors and such user charge will be modified periodically to reflect the current cost basis. These costs will be divided into the total flow into the system for that period. This will furnish a unit cost in cents per thousand gallons. This unit cost will be in accordance with the metered contribution to the system during that six-month period by the State. The present rate is 50¢/1,000 gallons as is derived below

O & M Costs for period from July 1, 1975
to June 30, 1976 = \$576,559.09. Total flow
to the system as recorded at the Treatment
Plant for the same period = 1,159,540,000
gallons.

Thus the Unit Cost - $\frac{57655909}{1159540} = 49.72¢/1,000$ gallons

The Operation and Maintenance Costs will be reviewed and updated annually in accordance with EPA guidelines.

16. Before the line which is the subject of this contract is in use, the District will be notified in writing of the use equity which the State wishes to purchase. If, thereafter, at any time in the future an excess capacity exists within the District's entire system, the State may purchase its needs

which may exceed the capacity originally purchased as per the same formula provided herein, the District to exercise exclusive discretion in determining whether or not a sufficient capacity exists to accommodate the State's needs.

17. If the District hereafter expands any of its facilities, the State will not be required to participate financially in such improvements. However, if the District is required to upgrade the treatment facilities, the State will participate in its use acquisition proportion as per the formula provided herein.

18. This Agreement and Easement contains the entire agreement and understanding between the parties hereto and shall be binding upon the said State and District and their respective successors or assigns.

IN WITNESS WHEREOF, the parties hereto do execute and deliver the herein Easement and Agreement this _____ day of _____, 1977.

At its duly convened meeting or by individual review hereof the State Budget and Control Board does hereby acknowledge and grant the herein Easement and Agreement.

WITNESSES:

Governor James B. Edwards, Chairman

Grady L. Patterson, Jr., Treasurer

Earle E. Morris, Jr., Comptroller

Rembert C. Dennis, Chairman
Senate Finance Committee

F. Julian LeaMond, Chairman
House Ways and Means Committee

The East Richland County Public Service District by
its authorized representative, Perry J. Ashley, Chairman, does
hereby acknowledge and accept the herein Easement and Agreement.

WITNESSES

EAST RICHLAND COUNTY PUBLIC
SERVICE DISTRICT

L. J. Hood By: Perry J. Ashley
Z. Travis Medlock Perry J. Ashley
Chairman

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

Personally appeared before me _____
who on oath states that he/she witnessed the execution of this
instrument this date by the following members of the Budget and
Control Board of the State of South Carolina: Governor James B.
Edwards, Chairman, Grady L. Patterson, Jr., Treasurer, Earle E.
Morris, Jr., Comptroller General, Rembert C. Dennis, Chairman,
Senate Finance Committee, and F. Julian LeaMond, Chairman, House
Ways and Means Committee, and together with _____
_____ saw the consent thereto

SWORN to before me this _____
day of _____, 1977 _____

(L.S.)
Notary Public, State of South Carolina
My Commission expires: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

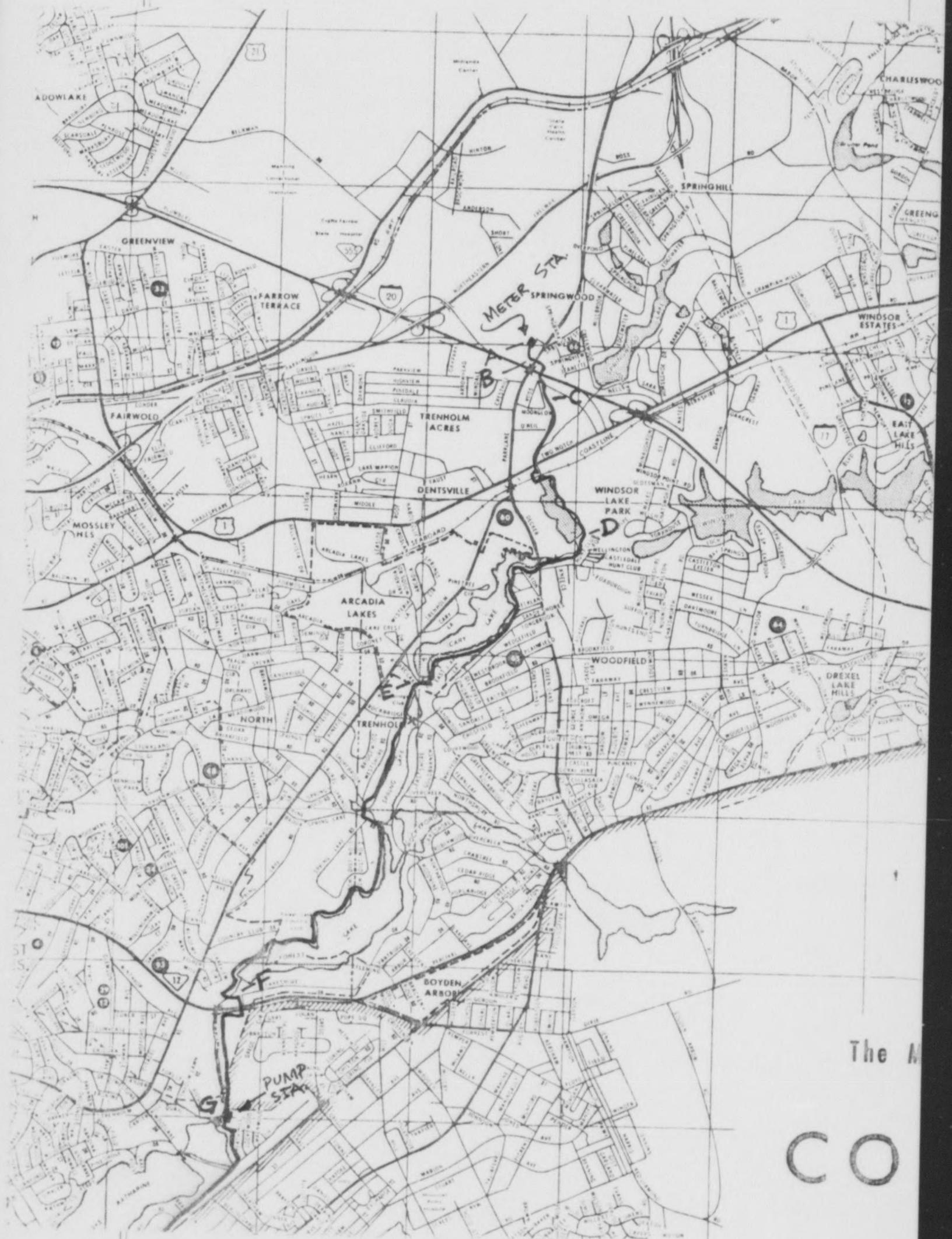
Personally appeared before me R J Hood
who on oath states that he witnessed the execution of this instru-
ment this date by Perry J. Ashley, Chairman, East Richland County
Public Service District, its duly authorized officer, and
together with T. Travis Medlock saw the acceptance
and consent thereto.

SWORN to before me this 30th
day of April, 1977. _____ R J Hood

T. Travis Medlock (L.S.)
Notary Public, State of South Carolina
My Commission expires: 6/28/81



EXHIBIT A



The A
CO

EXHIBIT B

STATE BUDGET AND CONTROL BOARD

POLL OF May 24, 1977

POLL ITEM NUMBER

EXHIBIT VI

5/24/77

8

Agency:

State Retirement Division

Subject:

Appointment of Retirement and Pre-Retirement Advisory Board

At the February 1, 1977 Board meeting, a subcommittee including Governor Edwards, Mr. Patterson and Mr. Morris was named to recommend a slate of eight persons to the referenced Advisory Board. Retirement Division Director Collins has provided a list of nominees for possible appointment.

Board Action Requested:

This is a reminder that this item is still pending.

Vote Of Board Member: (Please indicate by initialing appropriate line below.)

N/A I approve of the above action.

N/A I disapprove of the above action.

N/A Hold for regular meeting.

Attachments:

Collins letter to Board plus copy of Act R829 of 1976 and list of nominees.

749-A

EXHIBIT XXII-A
2/1/77

South Carolina Retirement System

PURVIS W. COLLINS
DIRECTOR



BANKERS TRUST TOWER
P. O. BOX 11960

Columbia

29211

The Honorable James B. Edwards, Governor, and
Members of the State Budget and Control Board

Dear Governor Edwards and Members of the
State Budget and Control Board:

I am enclosing a list of nominees for appointment to the Retirement and Pre-Retirement Advisory Board in accordance with an Act passed during the 1976 Session of the General Assembly.

The Act, copy attached, directs the Budget and Control Board to make the appointments for terms of four years, provided that of those first appointed, four of the members shall serve for a term of two years.

Respectfully submitted,

Purvis W. Collins
Purvis W. Collins
Director

PWC:cfb

(R829, H3849)

An Act To Create A Retirement And Pre-Retirement Advisory Board To Advise The Director Of The South Carolina Retirement System And The Director Of The State Personnel Office On Matters Relating To Retirement And Pre-Retirement Programs And Policies.

Whereas, public employees and retired public employees in South Carolina have a need to contribute their ideas to policy and program decisions affecting their own retirement preparation and benefits; and

Whereas, the General Assembly recognizes the need for pre-retirement education programs which can better prepare public service employees for a healthy and happy retirement. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. There is hereby created the South Carolina Retirement and Pre-Retirement Advisory Board, for the purpose of advising the Director of the South Carolina Retirement System and the Director of the State Personnel Division on matters relating to retirement and pre-retirement programs and policies.

SECTION 2. (a) The board shall consist of eight members appointed by the State Budget and Control Board and shall be constituted as follows:

- (1) One member representing municipal employees;
 - (2) One member representing county employees;
 - (3) Three members representing State employees, one of whom shall be retired;
 - (4) Two members representing public school teachers, one of whom shall be retired;
 - (5) One member representing the higher education teachers.
- The Budget and Control Board shall invite the appropriate associations, groups and individuals to recommend persons to serve on the board.

(b) The terms of the members shall be for four years and until their successors have been appointed and qualify. No member shall serve more than two consecutive terms. After serving two consecutive terms a member shall be eligible to serve again four years after the expiration of his second term. *Provided*, that of those first appointed four of the members shall serve for a term of two years. In the event of a vacancy, a successor shall be appointed in the

same manner as the original appointment to serve the unexpired term.

(c) A chairman, vice chairman and secretary shall be elected from among the membership to serve for terms of two years.

SECTION 3. The board shall meet once a year with the Director of the South Carolina Retirement System; once a year with the State Personnel Director; and once a year with the State Budget and Control Board. The chairman may call additional meetings of the board at such other times as deemed necessary and shall give timely notice of such meetings.

SECTION 4. The board shall review retirement and pre-retirement programs and policies, propose recommendations, and identify major issues for consideration.

SECTION 5. The board is authorized to seek reasonable staff assistance from the South Carolina Retirement System, the State Personnel Division and other State agencies which may be concerned with a particular area of study. The board is also encouraged to use such resources as faculty and students at public universities, colleges and technical education schools in South Carolina.

SECTION 6. This act shall take effect upon approval by the Governor.

In the Senate House the 30th day of June

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six.

W. BRANTLEY HARVEY, JR.,
President of the Senate.

RAMON SCHWARTZ, JR.,
*Speaker Pro Tempore of the House of
Representatives.*

Approved the 2nd day of July, 1976.

JAMES B. EDWARDS,
Governor.

South Carolina Retired Educators Association (one appointment):

1. Dr. J. Carlisle Holler, Columbia
2. Mr. W. J. Castine, Columbia
3. Dr. B. A. Gary, Darlington

South Carolina Education Association (one appointment):

1. Mr. Sam Tomlinson, Hartsville
2. Miss St. Clair Macmillan, Charleston
3. Mrs. Elizabeth Godfrey, North Augusta
4. Mr. Michael Graves, Charleston

Municipal Association of South Carolina (one appointment):

1. Mr. Roland Windham, City Manager, Aiken
2. Mr. W. C. Snow, Finance Director, Florence
3. Mr. G. C. Robinett, Finance Director, Columbia
4. Mr. E. H. Heustess, Jr., City Manager, Cayce
5. Mr. Horace B. Curtiss, Acting City Manager, Sumter
6. Mr. Lawrence Warwick, Personnel Director, Greenville

South Carolina Association of Counties (one appointment):

1. Mr. Harold L. King, Councilman, Darlington
2. Mr. Charlie Lawrimore, Treasurer, Georgetown
3. Ms. Pauline Koger, Auditor, Charleston
4. Mr. D. M. Bath, Florence
5. Mr. Buck Taylor, Clerk of Court, Charleston
6. Ms. Marjorie Sharpe, Treasurer, Lexington
7. Mr. Richard L. Black, County Manager, Charleston

South Carolina State Employees' Association (3 appointments - 2 active,
1 retired):

Retired Members (one):

1. Mr. W. Boyce Culp, Columbia
2. Mrs. Etta M. Dorn, Columbia
3. Mr. T. J. Crawford, Orangeburg (State College)

Active Members (two):

1. Mr. Robert R. Hill, Columbia
2. Mr. H. Truluck Kelly, Columbia
3. Mrs. Byrn B. Burch, Columbia
4. Mrs. Nancy B. Wren, Columbia
5. Miss Mary Lou Wicker, Columbia
6. Mrs. Tommie Moody, Columbia
7. Mr. Eugene R. McMillan, Columbia

Higher Education (one appointment):

1. Dr. Morgan B. Coker, Francis Marion College (Recommended by
Employees' Association)

EXHIBIT VII
5/24/77

STATE BUDGET AND CONTROL BOARD

MEETING OF May 24, 1977

AGENDA ITEM NUMBER 2

Agency: USC Spartanburg Regional Campus

Subject: Use of State-appropriated operating funds for renovation project.

USC Vice President for Finance B. A. Daetwyler and Spartanburg Regional Campus Dean for Administration Ted Eilenberg have requested approval of the use of up to \$40,000 of operating funds for the renovation of certain space for office use. The space is in the Administration Building and, until the recent completion of the new Library/Classroom Building, was used for library purposes.

Construction work is expected to cost about \$30,000 and floor covering, drapes and painting are expected to cost about \$10,000.

It is proposed that \$10,000 from the 1976-77 appropriation and \$30,000 from the 1977-78 appropriation be used for these purposes.

Board Action Requested:

Approve the expenditure of up to \$40,000 of State appropriated operating funds for renovation of Administration Building space for office use at the Spartanburg Regional Campus.

Staff Comment:

Attachments:

Daetwyler 5/2/77 letter to Putnam plus Eilenberg 4/28/77 letter to Daetwyler.

755

MSE



UNIVERSITY OF SOUTH CAROLINA
COLUMBIA, S. C. 29208

B+C
BD
agenda

DIVISION OF FINANCE

May 2, 1977

Mr. William T. Putnam
State Auditor
P.O. Box 11333
Columbia, S.C. 29211

Dear Bill:

Enclosed is a request from the USC Spartanburg Regional Campus Administration to spend up to \$40,000 of State Appropriated funds for renovation of space in their Administration Building. This Request is being made in compliance with Section 134, State Appropriations Act of 1976-77.

This office endorses the request because of their pressing need for administrative space. The completion of the new Library Classroom Building at Spartanburg made the space available in the old Administration Building. The space however is not suitable for offices without extensive renovation. The only funds available for this project are maintenance funds, part from the current year and the completion from fiscal 77-78 funds.

Sincerely,
Waut

B.A. Daetwyler

BD/dy

CC: Mr. Ted R. Eilenberg

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UNIVERSITY OF SOUTH CAROLINA
at SPARTANBURG
SPARTANBURG, S. C. 29303

April 28, 1977

Spartanburg 578-1800
Greenville 271-9111

Mr. Bernard Daetwyler
Vice President, Finance
University of South Carolina
Columbia, South Carolina 29208

Re: Renovation of old Library Area
Administration Building
Spartanburg Campus

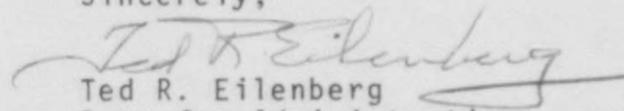
Dear Dr. Daetwyler:

With the completion of the move to the new Library/Classroom Building, the old Library area in the Administration Building is now vacant. We are planning to renovate this area and convert it to much needed office space. Therefore, it is requested that we be given permission to use Operating Funds from our A001 Account up to the amount of \$40,000.00 for this project. Approximately \$10,000.00 would be spent from the 1976-77 FY budget and the remainder, or approximately \$30,000.00 from the 1977-78 FY budget. All work will be done in the Administration Building, the oldest building on campus, which was funded by the county.

This project has been discussed with Mr. John A. McPherson, Chief Engineer, State Budget and Control Board, and he is reviewing the plans and specifications. Our architect is currently in the process of receiving bids from contractors and we anticipate that the construction work will be under \$30,000.00. Bids will be submitted to Mr. McPherson and with his approval, appropriate E forms will be prepared.

The architect estimates floor covering, drapes and painting not covered under the above construction contract would be purchased through State Purchasing and will cost approximately \$10,000.00, thus our request to spend up to a total of \$40,000.00 for the entire project.

Sincerely,


Ted R. Eilenberg
Dean for Administration

TRE:bs

cc: Dr. Olin B. Sansbury, Vice President

757

STATE BUDGET AND CONTROL BOARD

MEETING OF May 24, 1977

EXHIBIT VIII

5/24/77

AGENDA ITEM NUMBER

3

Agency:

College of Charleston

Subject: Use of operating funds for permanent improvement project.

President Stern indicates that two chillers, one boiler and related equipment which serve the College Lodge (which houses about 200 students) are beyond repair and will have to be replaced before the fall term. He points out that, because of economic and efficiency considerations, it is desired to extend work now underway on a central energy facility to connect this presently decentralized system to the centralized systems.

President Stern proposes to effect this conversion, if this request is approved, by means of a Change Order to the Central Energy Facility Project recently contracted with C. R. Hipp, Inc.

Board Action Requested:

Approve the use of not more than \$100,000 of general operating funds now on hand for the connection of College Lodge chillers, boiler and related equipment to the College's centralized energy and utility systems.

Staff Comment:

Floyd Tyler, Vice President for Business Affairs, advises that the funds in question are "general operating" monies which include State appropriations and student fees. He says that State appropriated funds usually represents about 75% of the general operating funds of the College.

Attachments:

Stern 5/11/77 letter to Putnam



THE COLLEGE OF CHARLESTON

CHARLESTON, SOUTH CAROLINA 29401

MAY 11 1977

Office of the President

Mr. William T. Putnam
State Budget and Control Board
Office of the State Auditor
P.O. Box 11333
Columbia, South Carolina 29211

Dear Mr. Putnam:

This confirms our telephone conversation regarding the critical need to replace two chillers and one boiler and related equipment (i.e. condensers, circulating pumps and hot and cold water pumps) at the College Lodge which houses approximately 200 students. The condition of this equipment is beyond repair and the boiler and associated equipment will have to be replaced before this fall.

Rather than replace these heating and air conditioning facilities, our FY 1977-78 Capital Improvement Plan, which was approved by the State College Board of Trustees and the Commission on Higher Education, called for the conversion from the decentralized heating and air conditioning equipment to our Central Energy Facility and underground distribution system of steam and chill water and centrally metored electrical system.

As you are aware, because of the State Capital Bond funds limitations no new projects were recommended by the Budget and Control Board and approved by the General Assembly. Normally, operating funds would be utilized in replacing the worn out chillers, boiler and auxilliary equipment and that fund source is the only one available at this time. For cost saving and fuel conservation purposes, it would be in the best interest of the state to convert to the centralized system and not replace the decentralized system.

It is our understanding that the Budget and Control Board approval is all that is needed if we are to use operating funds to convert rather than replace the heating and air conditioning facilities at the College Lodge.

If the Budget and Control Board approval is received, the College plans to effect the conversion by means of a Change Order to Project 43-19 Central Energy Facility (Second Increment) recently contracted with C.R. Hipp, Inc. in the amount of \$668,239. This contract provides for the extension of the underground steam and chill water system in St. Philip Street and the extension of electrical and telephone systems as well as the procurement of a second chiller and the associated cooling towers for the Central Energy Facility. The proposed change order would be an extension of the work in St. Philip Street and because the contractor is already on the site the price should be right.



THE COLLEGE OF CHARLESTON

CHARLESTON, SOUTH CAROLINA 29401

MAY 11 1977

Office of the President

Mr. William T. Putnam
State Budget and Control Board
Office of the State Auditor
P.O. Box 11333
Columbia, South Carolina 29211

Dear Mr. Putnam:

This confirms our telephone conversation regarding the critical need to replace two chillers and one boiler and related equipment (i.e. condensers, circulating pumps and hot and cold water pumps) at the College Lodge which houses approximately 200 students. The condition of this equipment is beyond repair and the boiler and associated equipment will have to be replaced before this fall.

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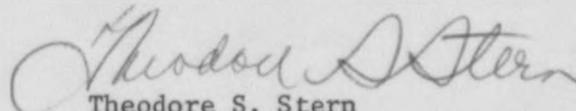
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Mr. Putnam
Page 2

Your cooperation and assistance in obtaining the Budget and Control Board's approval of this conversion with operating funds will be greatly appreciated. It is estimated that it will cost approximately \$100,000 to convert these facilities and funds in this amount are currently on hand for this purpose.

Cordially,


Theodore S. Stern
President

TSS:cw

STATE BUDGET AND CONTROL BOARD

MEETING OF May 24, 1977

EXHIBIT IX
5/24/77

AGENDA ITEM NUMBER 4

Agency: University of South Carolina

Subject:

Use of operating funds for permanent improvement

Dean Brunton requests approval of Form E-1 to establish a "Central Energy Management System" project, the use of operating funds to purchase such a system and authorization to execute a contract for such a system with Johnson Controls.

(Please see attachment for project details.)

Board Action Requested:

- (1) Approve establishment of the referenced project;
- (2) Approve the use of operating funds for this purpose; and
- (3) Authorize the execution of a contract for the referenced system with Johnson Controls.

Staff Comment:

Attachments:

Brunton 5/19/77 letter to McPherson



cc: Vice President B. A. Daetwyler
Mr. W. S. Turbeville

UNIVERSITY OF SOUTH CAROLINA

COLUMBIA, S. C. 29208

DIVISION OF OPERATIONS

May 19, 1977

Mr. John A. McPherson, Jr.
Chief Engineer
State Auditor's Office
P. O. Box 11333
Columbia, South Carolina 29211

RE: Central Energy Management System

Dear Mr. McPherson:

The 1976-77 University operating budget included an item of approximately \$4,000,000 for utility expenses. Through conservation methods, we have managed to reduce this budgeted amount by about 10% or a saving of more than \$400,000. To accomplish this saving, we have taken most of our mechanical work force off their normal maintenance jobs and have involved them in manual adjustments and control of our rather large and complex mechanical system.

We propose to use approximately \$300,000 of this energy saving to purchase a central energy management system. The proposed system will allow us to return our maintenance personnel to their regular duties and also make possible still further savings. While the system we are proposing will cover only our four energy plants and a limited number of buildings, it will have the following specific savings:

1. Minimize time spent walking, observing, and recording.
2. Obtain instant spot checks on temperature and equipment status.
3. Reduce electrical consumption and demand.
4. Instantly pinpoint failures from one location.
5. Reduce manpower with automatic start/stop programs.

We estimate that we will recover the cost of the management system in less than three years. In addition to the tangible financial savings, we also believe that we will be making real savings in terms of energy consumption. Attached to this letter are the normal Budget and Control Board permanent improvement forms, including verification of our bidding procedures and the results of bids from three manufacturers. We respectfully request permission to establish a project for approximately \$300,000 and award the purchase bid for the equipment to the low bidder, Johnson Controls.

Yours truly,

H. Brunton
Vice President - Operations

HB/mf/bt
Enclosures

762

REQUEST FOR AUTHORITY TO EXECUTE A CONSTRUCTION CONTRACT

Date May 6 19 77

Institution or Agency University of South Carolina

Name of Project Central Control and Monitoring System for the University of South Carolina No. _____

To: State Budget and Control Board
Columbia, South Carolina

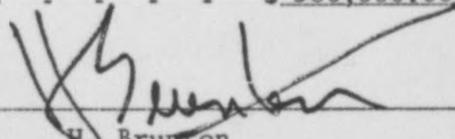
Attached herewith is a tabulation of bids received on the above named project on April 28 19 77.

Your authorization is requested to enter into a contract with the following bidder, whose bid has been determined to be the most advantageous:

Name of Bidder Johnson Controls

* Amount of Bid - - - - - \$ 299,982.00

Amount Estimated Prior to Receipt of Bids - - - - - \$ 300,000.00

(Signed) 
H. Brunton

Title Vice President - Operations

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MAY 11 1977

STATE BUDGET AND CONTROL BOARD

* If alternates were involved in the call for bids, it should be clearly shown how the proposed contract figure was determined.

Note:—Two copies of Form E-11, "Revision of Project Cost Estimate" should be submitted with this Request.

APPROVED: _____
State Auditor

DATE: _____

763

APPLICATION FOR APPROVAL OF A PERMANENT IMPROVEMENT PROJECT

DATE May 6, 19 77

Institution or Agency University of South Carolina

Name of Project Central Control and Monitoring System for the University of South Carolina

Total Estimated Cost - - - - - \$ 299,982.00

To:—State Budget and Control Board
Columbia, South Carolina

In accord with procedures outlined in your "Manual for the Planning and Execution of State Permanent Improvement Projects", your approval of the project described herein is requested.

I. JUSTIFICATION

(The Owner should attach hereto a full and complete resume of facts contributing to the need of this proposed project. The objective should be to provide sufficient information to fully acquaint the Board with conditions, prospective growth and/or other circumstances that led the Owner to propose this particular project.

Copies of studies or surveys, made either by the Owner or by an outside commercial or other firm, should be made available to the Board. Comments should be included concerning any alternative proposals, if any, considered by the Owner).

II. DESCRIPTION OF PROJECT

A. Type (New building, addition to existing building, renovation, alteration, etc.):

B. Intended Use: To monitor and control heating, ventilation and air conditioning system, safety and security and to compute consumption and cost of operating the University's energy systems.

C. If New Construction is Involved:

1. Attach (a) Architect's schematic drawing with facilities labeled.
(b) Outline specifications.
(c) Small scale locality map.
(d) Analysis of Architect's Preliminary Construction Estimate.

2. No. Square Feet:

3. Principal Facilities (No. of stories, rooms, offices, etc.) _____

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MAY 11 1977

S. C. BUDGET AND
CONTROL BOARD

D. If renovation and/or alteration of an existing building is involved, attach a statement outlining generally the principal work to be done.

E. If land acquisition is involved, attach a plat of the property, showing general location and acreage. Comment on any problems of acquisition or title that may exist.

F. For any unusual type project, the Owner should confer with the Board in the preparation of this Request, and attach such descriptive data as the Board may require in this particular instance.

III. ESTIMATED COST

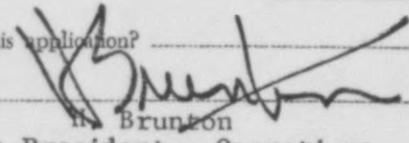
Site - - - - -	\$ _____
Grading - - - - -	_____
Construction - - - - -	_____
Fees - - - - -	_____
Renovation - - - - -	_____
Basic Equipment and Supplies - - - - -	_____
Landscaping - - - - -	_____
Builder's Risk Insurance - - - - -	_____
Other (Specify) <u>Installation of a central control and monitoring</u>	_____
<u>system for selected buildings.</u>	<u>299,982.00</u>
Contingencies - - - - -	_____
TOTAL ESTIMATED COST - - - - -	<u>\$ 299,982.00</u>

It is further estimated that this project will add \$ _____ per year to operation and maintenance costs of this agency.

IV. FINANCING PLAN

A. Funds already in Hand - - - - -	\$ <u>299,982.00</u>
Source: <u>Current operating funds</u>	_____
B. Proposed Bond Issue - - - - -	_____
(If a bond issue is proposed, the Board should be consulted prior to preparation of this application, to determine the details to be submitted herewith).	
C. Other (describe) _____	_____
_____	_____
TOTAL - - - - -	<u>\$ 299,982.00</u>

Has your governing board taken formal action authorizing the submission of this application? _____

(Signed) 

Title Vice President - Operations

BOARD'S ACTION

APPROVED: _____ DATE: _____

State Auditor

BID TABULATION FOR A CENTRAL CONTROL AND MONITORING SYSTEM

University of South Carolina

Barber-Colman	\$538,300.00
Honeywell	407,177.00
Johnson Controls	299,982.00

STATE BUDGET AND CONTROL BOARD

MEETING OF May 24, 1977

EXHIBIT X

5/24/77

AGENDA ITEM NUMBER

5

5/23/77-REVISED TO REFLECT ADDED ATTACHMENTS

Agency: University of South Carolina

Subject: Settlement of Cultural Center A&E Contract

After much negotiation, University staff and the A&E firm agreed to use an estimated construction cost of \$8,600,000 as a basis for determining the fee due on the referenced projects which are now held in abeyance because most of the funds originally made available for them subsequently were returned to the General Fund.

The USC Board of Trustees has agreed to the modified construction cost estimate but insisted that the University acquire possession and ownership of all the plans and specifications involved. The A&E firm has agreed to this. In addition, the University has agreed to allow the A&E firm first opportunity to buy the plans back from USC for the amount of fees in question should someone else want to erect the auditorium.

Board Action Requested:

(1) Authorize USC to settle the A&E fee payment on the basis of an estimated construction cost of \$8,600,000, with USC having ownership of the plans and the architect having an option to buy them back; and

(2) Approve the use of Institution Bond funds from Project 27-87 in an amount not exceeding \$75,000 which, with funds remaining in the Cultural Center projects, would be used to pay the fees still due the A&E firm.

Staff Comment:

Attachments:

L. 766

Brunton 5/19/77 letter to McPherson plus University Counsel Grier 5/23/77 Memorandum to Vice President for Operations and Geiger 4/18/77 letter to Brunton.



cc: President W. H. Patterson
Vice President B. A. Daetwyler
Mr. W. S. Turbeville

UNIVERSITY OF SOUTH CAROLINA

COLUMBIA, S. C. 29208

DIVISION OF OPERATIONS

May 19, 1977

Mr. John A. McPherson, Jr.
Chief Engineer
State Auditor's Office
P. O. Box 11333
Columbia, South Carolina 29211

SUBJECT: Project 27-93 - Auditorium (Cultural Center)
Project 27-97 - Land and Utilities for the Cultural Center

Dear Mr. McPherson:

In December, 1975, at the request of the Budget and Control Board, the University returned all unobligated funds that we had on the above projects. A very limited amount of encumbered funds was retained. One encumbrance was for architectural fees for the conclusion of the working drawings and specifications phase.

Normally, architectural fees are based on a percentage of the actual construction cost. Since construction of the auditorium was being delayed, there was no way to determine what that actual cost was going to be and we and the architect were in considerable disagreement over the proper amount. The original project budget included an estimated construction cost of \$6,900,000, plus approximately a 10% contingency. The architect argued that the escalation of construction costs plus design additions justified a construction cost of \$10,420,685. After several lengthy discussions, we and the architect agreed to the amount that we thought construction costs had risen and we established a construction cost of \$8,600,000.

The recommended architectural fees based on \$8,600,000 were then submitted to the University Trustees and they discussed them at three separate meetings over a period of several months. The Trustees agreed on the modified construction cost but insisted that the University acquire possession and ownership of all the plans and specifications. This restriction was finally accepted. In addition, at the architect's request, we have agreed that he "be allowed first opportunity to buy the plans back from the University for the amount of fees in question if a new builder or appropriate agency should come forth with a serious interest in erecting this auditorium."

The University therefore requests permission to settle the architectural payment on the basis of an \$8,600,000 estimated construction cost, with the restriction that the University have ownership of the plans and including that the architect has an option of buying back the plans.

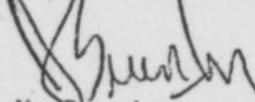
767

Mr. John A. McPherson, Jr.
May 19, 1977
Page Two

Based on the above settlement, the architect would be owed \$129,690. Of this, only \$75,264 remains in the above two projects, since in December, 1975, we encumbered funds based on the lower estimated construction cost. The University therefore would also like permission to shift the approximate \$75,000 from Project 27-87, Property Acquisition, Northeast. Funds for this latter project are from University bonds and we believe the transfer is appropriate since Project 27-87 and also the Cultural Center include the purchase of property in the same general area.

If Budget and Control Board approval is given for the above recommendations, we would then submit the necessary E-11's to the State Auditor to perform the proper accounting.

Yours truly,



H. Brunton
Vice President - Operations

HB/mf



UNIVERSITY OF SOUTH CAROLINA

COLUMBIA, S. C. 29208

LEGAL AFFAIRS AND LEGISLATION

23 May 1977

Memorandum

TO: Vice President for Operations

SUBJECT: Multipurpose Auditorium

Mr. Brunton:

You asked me to discuss the proposed settlement between the University and Geiger, McElveen and Kennedy on the Multipurpose Auditorium project with the Office of the Attorney General for final comment. I have explained the terms of the settlement to Victor S. Evans, Deputy Attorney General, who advises that the settlement appears acceptable.

Let me reiterate for the record that the settlement terms as I understand them and as I have explained them to the Attorney General's Office are as follows: The University will pay an architectural fee amounting to 6.6% of 75% of the fee due on a cost estimate of \$8,600,000, with the architect relinquishing all plans and specifications (and other relevant documents) for the project to the University, along with any and all rights which the architect claims therein, on the condition that the University grant the architect first opportunity to buy the plans back from the University for the amount of the fees we have paid if a new builder comes forward to undertake the project; and that the architect will confirm in the final settlement that the University is fully released of all other obligations to the architect and that all our obligations of whatever kind under the original contract will end upon payment of the settlement fee. (This last item will doubtless need to be reiterated in the final settlement papers.)

RECEIVED

MAY 23 1977

Philip M. Grier
University Counsel

PMG/jmt

S. C. BUDGET AND
CONTROL BOARD

769



April 18, 1977

Dean Harold Brunton, Jr.
Vice President, Business Affairs
Administration Building
University of South Carolina
Columbia, SC 29208

RE: Multipurpose Auditorium

Dear Mr. Brunton:

I am listing below a schedule of Architectural/Engineering Fees which are now payable on the referenced project.

1.	Estimated Construction Cost	\$ 8,600,000.00
2.	Total A/E Fee at 6.6%	567,600.00
	Fee Earned to Date	
3.	A/E Fee at 75%	\$ 425,700.00
4.	Concrete Consultant @ 50%	3,273.00
5.	Lighting Consultant @ 100%	9,917.00
6.	Leon Campbell & Associates (Utility Tunnel Engineering - 6.6% on \$250,000.00)	16,500.00
7.	Leon Campbell & Associates (Utility Tunnel Surveying)	600.00
8.	Total A/E Fee to Date	\$ 455,990.00
9.	Less Previous Payments	(326,300.00)
10.	Fee Now Payable	\$ 129,690.00

RECEIVED
MAY 23 1977

S. C. BUDGET AND CONTROL BOARD

Very truly yours,
GMK, INC.

Wm. D. Geiger Jr., AIA

WNGJr:erb

January 17, 1977

Memorandum

TO: President of the University

SUBJECT: Multipurpose Auditorium

Dr. Patterson:

This office has reviewed the situation regarding the architectural fees on the above referenced project and is of the legal opinion that the minimum architectural fees due have been correctly calculated and paid on a cost-estimate basis of \$6,900,000, but that justification appears to exist for paying a total fee amounting to 75% of 6.6% of \$7,335,587, for a total fee of \$363,111.55. The basis for our opinion is as follows.

FACTS

As Mr. Brunton indicated in his memo of December 20, 1976, in May or June of 1974 GMK contracted to develop construction plans for the project basing their fee on 6.6% of the construction cost, which they estimated to be \$6,800,000 (although the project was budgeted for \$6,900,000).

On June 27, 1975, GMK increased its estimated construction costs to \$6,900,000 with no apparent explanation, which increase was tacitly approved by the University when we paid architectural fees based on that amount.

On June 30, 1975, GMK presented revised construction cost estimates of \$7,335,587 which increased amount was again approved by the University.

In December, 1975, the project was effectively tabled by the Budget and Control Board and the State withdrew all unobligated funds. (Retainage sufficient to pay an architectural fee based on a \$6,900,000 construction cost was deducted from the transfer back to the state.) Please

President of the University
Page 2
January 17, 1977

note that although funds for this project were completely withdrawn from the University on December 9, 1975 (see Budget & Control Board transfer voucher attached), USC nonetheless authorized GMK to continue work on the plans--a point clearly established in Mr. Brunton's memorandum (see page two, paragraph four, thereof). In our judgement, there has been no agreement on fees since that time, which means that the last apparently accepted estimate was \$7,335,587, as agreed upon June 30, 1975. (I note that as late as June 11, 1976, however, GMK was still billing us at the \$6,900,000 level and I am unable to determine the reason.)

On July 9, 1976, GMK proposed an estimated construction cost of \$10,420,685, which figure was rejected and the original estimate of \$6,900,000 was reiterated along with the \$7,335,587 figure presented June 30, 1975.

In December of 1976, GMK presented a bill for fees basing their fees on a construction cost of \$8,600,000.

At this point the issue was raised as to what architectural fees were in fact due and payable to GMK.

DISCUSSION

It is a general rule of law that architects are entitled to be compensated for their work in accordance with strict interpretation of their contracts. In this particular instance the contract provided for scheduled payments aggregating 6.6% of the estimated construction cost of \$6,800,000. An architectural fee paid on such basis is regarded as a usual and reasonable method of remuneration. However, courts have repeatedly held that where actual construction costs far exceed estimated costs the architect cannot claim compensation based upon the excessive cost since it is brought about by his own error. 6 CJS Architects 36.

A case decided by the supreme court of this state, Beacham -v- Greenville County, 218 S.C. 181, 62 SE2d 92 (1950), supports the proposition cited above. The facts in Beacham were as follows:

An architect contracted to design the remodeling of the Greenville County Courthouse for a fee based on 6% of the construction cost (which cost was not estimated in the contract) plus an initial payment of \$3,600 for preliminary plans. The General Assembly later appropriated \$400,000 for

President of the University
Page 3
January 17, 1977

the project, and the architect not surprisingly estimated it could be constructed for that figure. However, when the bids were received the lowest bid was \$863,000, and the project was abandoned. The architect contended he was entitled to a fee based on 6% of the low bid and sued to collect it.

The Court held, first, that the architect was not entitled to a fee based on the low bid (\$863,000) because that bid was excessive; and second, that neither was he entitled to a fee based on the estimated \$400,000 because the project could not be built for that sum and the plans were worthless to the county.

The Court stated, "Where an architect is employed to prepare plans for a building to cost not more than a certain sum, or on condition that the building can be erected for a certain sum, it has usually been held that the architect is not entitled to compensation unless the building can be constructed for the stipulated amount." And the Court went on to observe that "where an architect is employed by the State or by a political subdivision thereof, it has generally been held that he may not recover compensation for preparing plans for a structure which will cost more to erect than such government unit is permitted by law to expend for the purpose."

Applying this case law to the present situation with GMK, the University could perhaps even go so far as to say GMK was entitled to no fee since their estimated construction costs have risen from \$6,900,000 (budgeted) to \$10,420,685 and since authority for construction of the building has been withdrawn. Of course, while the "no fee" position is legally supportable and might be resorted to if litigation ensues, the more reasonable position would be to allow a fee based upon the last cost estimate agreed upon between USC and GMK which does not substantially exceed the original estimated cost. This approach is also supported by our Supreme Court in Beachan, supra; and by other jurisdictions. Food Management Inc. -v- Blue Ribbon Beef Pack., Inc., 413 F2d716; 127 ALR 412.

According to page 2 of the December 20, 1976, memorandum of Mr. Brunton, the only approved estimated cost increase was the figure \$7,335,587. Inasmuch as this figure was accepted and does not substantially increase the original estimate, we are justified in using this figure as the basis for computing architectural fees due. The total architectural

President of the University
Page 4
January 17, 1977

fee due on this project would thus be 75% of 6.6% of \$7,335,587, for a total fee of \$363,111.55, or after previous payments, a balance due of \$36,811.55.

Although this is substantially lower than the fee Geiger claims, I believe it is the fee having the soundest basis in law and I therefore recommend an immediate response to Geiger on this basis; if he accepts, we are well out of the matter. A proposed letter to GMK from Mr. Brunton is attached for your review.

Whether or not this should be deemed our final position, however, is a complex question. On page four of his memorandum of December 20, 1976, Mr. Brunton notes that he and Turbeville had arrived by December 15, 1976, at a figure of \$8,000,000 to \$3,200,000 which they believed might fairly be stated as the amount on which fees should be based. They reached this decision, as well as I can tell, by relying on Geiger's statement that the plans were incomplete at the time the cost estimate was raised to \$7,335,587, and by concluding that the effects of inflation deserved to be taken into account. By the end of their meeting with Geiger on December 15, 1976, however, they concluded that this figure should be revised upward once again, to the final level of \$8,600,000. They then discussed alternative approaches to settling this matter with Geiger (see page four of the December 20, 1976, memorandum), but without reaching agreement; and I believe the negotiated result is now so far from the terms of the original agreement that it should not be accepted.

SUMMARY & RECOMMENDATION

Our legal situation and our potential liability in this matter may now be summarized, omitting much relevant detail, as follows:

1. the fee to be paid under this contract is 75% of 6.6% of the "latest statement of probable construction cost"--a phrase which is interpreted as referring to the statement last agreed to before the project was shelved;
2. the latest statement mutually accepted in this case appears to be \$7,335,587; but arguments have been variously put forward that the latest figure was as low as \$6,900,000 and as high as \$8,600,000;

President of the University
Page 4
January 17, 1977

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2. the latest statement mutually accepted in this case appears to be \$7,335,587; but arguments have been variously put forward that the latest figure was as low as \$6,900,000 and as high as \$8,600,000;

President of the University
Page 5
January 17, 1977

3. GMK argues that the matter continues to be open-ended, and has recently estimated that the building would now cost \$10,420,000;

4. significant case law is available to both sides in defining our liability under this contract, but the weight of authority appears to be with USC;

5. in the event of litigation, the following figures would be significant:

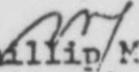
- (a) minimum fee due: 75% of 6.6% of \$6,900,000, or \$341,550
- (b) fee based on last agreed cost: 75% of 6.6% of \$7,335,587, or \$363,112
- (c) fee based on compromised proposed by Brunton (memo of December 20, 1976): 75% of 6.6% of \$8,600,000, or \$425,700
- (d) fee based on last cost estimate submitted by GMK: 75% of 6.6% of \$10,420,000, or \$515,790

In the opinion of this office, since the latest approved estimate of cost was \$7,335,587, our final offer should be to pay the required fee based on this sum. Any agreement to pay a higher amount should be based on acquiring some further benefit to the University if at all possible, such as receiving complete ownership of the drawings and specifications or a complete release from GMK of any obligation--actual or alleged--to utilize their services further on this project if it should be revised in the future.

We are also aware of the interest GMK has in retaining ownership of the plans and in being granted freedom to negotiate with the state, city or county toward a revival of the project by one of these entities. GMK would gain substantially if such a revival of the project were arranged, and this helps our position. We believe the University may be more likely to succeed if its insistence on paying the fee on the lower basis if assurances are given to GMK of USC's willingness to assist in transferring the project to another government agency should this be arranged. Note in this connection that the architect does not retain an absolute interest in, or ownership of, the plans for this project; and USC should be careful to avoid relinquishing its interest in the plans when a final settlement is arranged.

President of the University
Page 6
January 17, 1977

Based upon the foregoing, and after full consultation with the office of the Attorney General (which concurs in our recommendation), we advise an offer to settle for a fee of 75% of 6.6% of \$7,335,587 plus other assurances as detailed above.


Phillip M. Grier
University Counsel

PMG/jmr

PROJECT INFORMATION

APPLICATION FOR APPROVAL OF A PERMANENT IMPROVEMENT PROJECT

DATE August 30, 19 73

Institution or Agency University of South Carolina

Name of Project Auditorium (Cultural Center)

Proj. No. 27-93

Total Estimated Cost \$8,400,000

To:--State Budget and Control Board
Columbia, South Carolina

In accord with procedures outlined in your "Manual for the Planning and Execution of State Permanent Improvement Projects", your approval of the project described herein is requested.

I. JUSTIFICATION

(The Owner should attach hereto a full and complete resume of facts contributing to the need of this proposed project. The objective should be to provide sufficient information to fully acquaint the Board with conditions, prospective growth and/or other circumstances that led the Owner to propose this particular project.

Copies of studies or surveys, made either by the Owner or by an outside commercial or other firm, should be made available to the Board. Comments should be included concerning any alternative proposals, if any, considered by the Owner).

II. DESCRIPTION OF PROJECT

A. Type (New building, addition to existing building, renovation, alteration, etc.):

1,800 - 2,400 seat auditorium located on a site adjacent to the new S.C. ETV Center. The project will require the acquisition of property for both the auditorium and ETV and the enlargement of the East Energy facility to provide necessary utilities for the auditorium.

B. Intended Use:

C. If New Construction is Involved:

- 1. Attach (a) Architect's schematic drawing with facilities labeled.)
- (b) Outline specifications.)
- (c) Small scale locality map.)
- (d) Analysis of Architect's Preliminary Construction Estimate.)

Not requested at this time.

2. No. Square Feet:

3. Principal Facilities (No. of stories, rooms, offices, etc.)

D. If renovation and/or alteration of an existing building is involved, attach a statement outlining generally the principal work to be done.

E. If land acquisition is involved, attach a plat of the property, showing general location and acreage. Comment on any problems of acquisition or title that may exist. (See attached.)

F. For any unusual type project, the Owner should confer with the Board in the preparation of this Request, and attach such descriptive data as the Board may require in this particular instance.

777

mailed
9-10-73
Boas

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Q

III. ESTIMATED COST

Site	\$ 1,300,000
Grading Utilities	900,000
Construction	5,200,000
Fees	350,000
Renovation	
Basic Equipment and Supplies	100,000
Landscaping	50,000
Builder's Risk Insurance	
Other (Specify)	
Contingencies	500,000
TOTAL ESTIMATED COST	\$ 8,400,000

It is further estimated that this project will add \$ 100,000 per year to operation and maintenance costs of this agency.

IV. FINANCING PLAN

A. Funds already in Hand	\$ 8,400,000
Source: 1973-74 Appropriation Act	
B. Proposed Bond Issue	
(If a bond issue is proposed, the Board should be consulted prior to preparation of this application, to determine the details to be submitted herewith).	
C. Other (describe)	
TOTAL	\$ 8,400,000

Has your governing board taken formal action authorizing the submission of this application? Yes

(Signed) H. Brunton
Title Vice President - Business Affairs

BOARD'S ACTION 9/2/93

APPROVED: [Signature]
State Auditor

DATE: _____

REVISION OF PROJECT COST ESTIMATE

Date May 20, 1974

Institution or Agency UNIVERSITY OF SOUTH CAROLINA

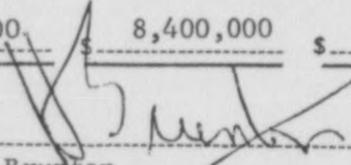
Name of Project AUDITORIUM (CULTURAL CENTER) No. 27-93

To: State Budget and Control Board
Columbia, South Carolina

Your approval of the following revised cost estimate on the above project is requested.

A statement is attached indicating the necessity of these revisions. *

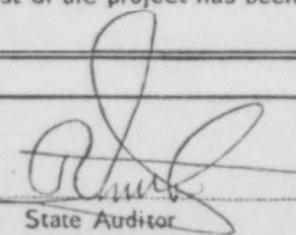
Item	4/24/74 Last Estimate	Revised Estimate	Change
Site	\$ 1,300,000	\$ -	\$ -1,300,000
Grading Energy Facility	759,112	-	- 759,112
Construction	5,200,000	6,900,000	+1,700,000
Fees	350,000	500,000	+ 150,000
Renovation			
Basic Equipment and Supplies	100,000	300,000	+ 200,000
Landscaping	50,000	50,000	-
Builder's Risk Insurance			
Other			
Contingencies	640,888	650,000	+ 9,112
Total Estimated Cost	\$ 8,400,000	\$ 8,400,000	\$ -

(Signed) 
H. Brunton
Title Vice President - Business Affairs

Source of Funds

1973 Appropriation Act (Revenue Sharing) \$8,400,000

* If the total estimated cost of the project has been increased, the source of the additional funds required should be indicated also.

APPROVED: 
State Auditor

DATE: 5-28-74



CC: Mr. B. A. Daetwyler
Mr. Bill Putnam

UNIVERSITY OF SOUTH CAROLINA
COLUMBIA, S. C. 29208

DIVISION OF BUSINESS AFFAIRS

May 20, 1974

The Honorable P. C. Smith
State Auditor
State Budget and Control Board
P. O. Box 11333
Columbia, South Carolina 29211

SUBJECT: State Capital Improvement Bonds (Act 1377 of 1968)

Dear Pat:

During the last two years, we have worked closely with your office in the use of funds under the above Act. We recognize that there is a fundamental problem with the annual bond limit established by the Legislature and that any decision regarding project approval for University projects will have to be done in context with other State Capital needs. However, the following is a release of funds that we request:

	<u>1974-75</u>	<u>1975-76</u>	
<u>Act 1271, 1970</u>			
Library	\$4,102,500	-	(1)
Federal Building	697,500	-	(2)
<u>Act 1555, 1972</u>			
Horseshoe	1,600,000	\$1,200,000	(3)
<u>Act (H2808) 1974</u>			
Auditorium Land & Utilities	3,000,000	or	3,000,000 (4)
Social Sciences Building	-	5,000,000	

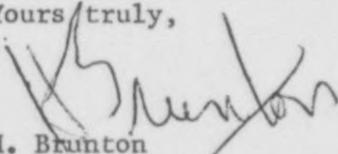
- (1) The Library is currently under construction and completion is planned for Spring '75. Therefore, unless unforeseen delays occur in construction, we will need the remaining funds in the next fiscal year.
- (2) A few months ago, I discussed with you our plan to get the 1970 Bond Act modified to allow us to divert the money originally authorized for the Federal Building to purchase Booker T. Washington. That modification has been approved by the House Ways and Means Committee and the House and we hope to have it approved by the Senate. If approved as expected, we would need the funds to purchase Booker T. in August 1974.

The Honorable P. C. Smith
May 20, 1974
Page Two

- (3) Last Summer we requested funds be released for the Horseshoe in 1973-74. Our request was not approved but we were allowed to do architectural work and later to start necessary preliminary utility work on installing distribution pipes. We are now ready to take construction bids and are vacating some of the buildings so that work can get under way. Hopefully we will get approval from the Budget and Control Board for the release of funds for this project. Since we are trying to have the project substantially completed by the Bicentennial Year 1976, and since much of the work is acutely needed because of the dangerous condition of some buildings, we hope that funds can be released as requested.
- (4) As you know, the acquisition of land and the installation of utilities for the Cultural Center Project is already underway since it was started under the Auditorium Project (financed by revenue sharing funds). It would be possible for us to continue using those revenue sharing funds until 1974-75 or even until 1975-76 and therefore suggest an optional release of those capital funds.

Attached to this letter is a Permanent Improvement Request for "Land and Utilities for the Cultural Center". Approval is needed on this project in order to have an account in which we can make appropriate charges. It would be our intent however to continue using the \$8.4 million of revenue sharing funds (as described in No. 4 above) until the time when the Budget Board releases the authorized Capital Funds for the project.

Yours truly,


H. Brunton
Vice President - Business Affairs

HB/mf

Enclosure



THE STANDARD FORM OF AGREEMENT BETWEEN CLIENT AND ARCHITECT

THIS AGREEMENT (REVISED)

made this 9th day of October in the year Nineteen Hundred and seventy-five

BY AND BETWEEN

University of South Carolina hereinafter called the Client, and

Geiger/McElveen/Kennedy, Inc. hereinafter called the Architect

WITNESSETH,

that whereas the Client intends to plan and construct an Auditorium and Performing Arts Complex.

hereinafter called the Project,

NOW, THEREFORE,

the Client and the Architect, for the considerations hereinafter set forth agree as follows:

ARTICLE 1. The Client and the Architect agree to the general terms, conditions and principles regarding services, compensation, and architect - client relations as recommended by the South Carolina Chapter, The American Institute of Architects and embodied in its publication entitled "Standards of Architectural Service", dated January, 1970, a copy of which is attached hereto and made a part of this Agreement.

ARTICLE 2. The Architect agrees to provide applicable services as outlined in the above mentioned publication.

ARTICLE 3. The Client agrees to pay the Architect for his services in accordance with applicable conditions set forth in the above-mentioned publication as follows:

3.1 For his Basic Services

Fee to be computed as per South Carolina Chapter of AIA
Fee Schedule for a highly complex project.

It is agreed that the provisions of Attachment A (Item 1-11) will be amended to reflect any Standard Client-Architect Agreement subsequently developed jointly by the University of South Carolina and the South Carolina Chapter, AIA, prior to completion of this project.

It is further agreed that Geiger/McElveen/Kennedy, Inc., Will pay fifty (50%) per cent of the cost of the fee to Izenour & Associates, and fifty (50%) of the cost of the fee to Shelstone Associates, Architectural Concrete Consultants.

The University of South Carolina will bear the entire cost of Evans and Hillman Lighting Consultants.

IN WITNESS WHEREOF the parties hereto have executed this agreement the day and year first above written.

Client University of South Carolina

Architect Geiger/McElveen/Kennedy, Inc.

By
B. D. ...

By

ATTACHMENT A

June 17, 1974

1. While not required, our architects usually prepare and present two or three color photographs of project renderings to the owner and to the Chief Engineer, State Budget and Control Board.
2. Consulting Services where the recommended equipment or systems are incorporated in the general contract, upon which the architects' fee is based.
3. Engineering services other than concrete tests, soil borings, surveys and topographic maps.
4. Any change in approved drawings and specifications, except those involving very unusual or drastic change. On routine changes, the architect would benefit commensurate with the degree of change in the contract of the general contractor. Unusual or drastic changes would be subject to fee negotiation.
5. The architect is expected to prepare such alternates as are required by the owner, whether or not considered by the architect to be necessary to hold construction costs within budget limits, or, if necessary, to provide for separate contracting of elements of the project.
6. The owner expects to pay no costs of transportation or other expense in research of the project.
7. The architect is expected to provide sufficient copies of bid documents for all interested contractors and approving agencies of the University, the State and the Federal Government.
8. The Architect is expected to provide a minimum of two (2) copies of "as build" drawings to the owner and one (1) copy to each State and Federal agency requiring same.
9. Full-time on-site inspection will be required. The resident inspector is usually employed by the architect. We agree to reimburse the architect for one-half (1/2) the actual expense of this service.

10. The architect is expected to arrange for periodic concrete inspection, sampling and testing and to certify related invoices for direct payment by the owner and to certify the accuracy and appropriateness of each request of the general contractor for periodic payment.
11. The architect maintains files of weekly payrolls required by Federal agencies.

STATE BUDGET AND CONTROL BOARD

MEETING OF May 24, 1977

EXHIBIT XI
5/24/77

AGENDA ITEM NUMBER 6

Agency:

Department of Corrections

Subject:

Selection of A & E firm for prototype facilities.

Carried over from 5/4/77 meeting.

Commissioner Leeke requests approval of the selection of an A&E firm to provide the services required in connection with the design and construction of three prototype facilities (one medium security, one minimum security and one work-release facility).

Firms selected by the Department after following the required selection procedure, in order of preference, are:

- (1) Wilbur Smith and Associates/Hellmuth, Obata & Kassabaum, Inc.;
- (2) Lucas & Stubbs/Gruzen & Partners; and
- (3) J. E. Serrine Company

Board Action Requested:

Commissioner Leeke requests approval of the selection of Wilbur Smith and Associates/Hellmuth, Obata and Kassabaum, Inc. for the referenced projects, pursuant to Code Sections 1-453 through 1-460.

Staff Comment:

Contract has been revised as agreed at 5/13/77 briefing.

Attachments:

- (1) Summary of key points in contract and (2) contract

Contract for South Carolina Department of Corrections Construction
Program

The attached contract is being submitted to the Budget and Control Board for approval. It was negotiated by the architect and representatives of the South Carolina Department of Corrections, the Attorney General's Office, and the State Engineer of the Budget and Control Board. It incorporated those provisions required by law and includes the following major components:

- a) The entire project, including a minimum security facility, a medium security facility and a work-release/pre-release facility, is broken down into four phases:
 - 1) Pre-design Analysis and Schematic Design Phase
 - 2) Design Developments Phase
 - 3) Construction Document and Bidding or Negotiation Phase
 - 4) Construction Phase - Administration of the Construction Contract

- b) The contract is for professional services in all four phases. Professional fees and expenses for Phase I, approximately 18% of the project, have been contracted for in this document and they shall not exceed \$235,800. The architect will submit a monthly request for payment with appropriate documentation on a form supplied by the State. After this phase, the State will negotiate professional fees and expenses for any or all of the remaining phases. After Phase I, the option of removing the work-release/pre-release facility from the contract has been included.

- c) The plans will be property of the State for reuse as it deems appropriate. Liability for reuse may be negotiated with the architect by the State at the time of reuse at the State's option.
- d) The State Engineer will receive copies of all submittals by the architect for review during the project.

In addition to the contract, it is understood by all parties that the South Carolina Department of Corrections will submit an inmate labor construction program to the Budget and Control Board for its review prior to the submission of the renegotiated contract for additional phases. Additionally, the same representatives of the State involved in the negotiation of this contract will negotiate the next phase or phases and submit it to the Budget and Control Board for approval prior to execution.

PROFESSIONAL FEE PLUS EXPENSES

I. THE ARCHITECT shall provide professional services for the Project in four (4) Phases as described below and in accordance with the Terms and Conditions of this Agreement.

- A. Phase 1 - Predesign Analysis and Schematic Design Phase
- B. Phase 2 - Design Developments Phase
- C. Phase 3 - Construction Document and Bidding or Negotiation Phase
- D. Phase 4 - Construction Phase - Administration of the Construction Contract.

II. THE OWNER shall compensate the Architect, in accordance with the Terms and Conditions of this Agreement.

A. For BASIC SERVICES, as described in Paragraph 1.1 and Article 14, Basic Compensation shall be computed on the basis of a PROFESSIONAL FEE PLUS EXPENSES as follows:

(1) For Phase 1 - Predesign Analysis and Schematic Design Phase

a. A PROFESSIONAL FEE of _____

Thirty-seven Thousand Eight Hundred dollars

(\$ 37,800.00)

b. Plus expenses computed as follows:

Employees' time (other than Principals) at a multiple of two and sixty-five one hundredths (2.65) times the employees' Direct Personnel Expense as defined in Article 4.

Services of professional consultants at a multiple of one (1) times the amount billed to the Architect for such services. The retainage of a professional consultant by the Architect shall be by prior approval of the Owner.

(2) Upon completion of an approved Phase I - Schematic Design Phase, the Owner has the right to negotiate further, in whole or in part, for ADDITIONAL BASIC SERVICES for Phase 2, Phase 3, and Phase 4, and as mentioned in Paragraph I of this Section, Paragraphs II A.(1), b. and B shall apply.

B. FOR ADDITIONAL SERVICES, as described in Paragraph 1.3, compensation for such SERVICES shall be negotiated prior to furnishing such SERVICES by the ARCHITECT.

C. No initial Payment for the execution of this Agreement.

PROFESSIONAL FEE PLUS EXPENSES

- D. FOR REIMBURSABLE EXPENSE, amounts expended as defined in Article 5 are included in TOTAL COMPENSATION as described in Paragraph IV of this Section.
- III. THE OWNER AND ARCHITECT agree in accordance with the Terms and Conditions of this Agreement that:
- A. If Scope of the Project is changed materially, compensation shall be subject to renegotiation.
- IV. THE OWNER and ARCHITECT agree that the expenses are to be paid in accordance with Paragraphs II. A. (1).b and II. D. shall not exceed
- One Hundred Ninety-Eight Thousand
- (\$198,000.00)
- V. After completion of Phase 1, the Owner reserves the right not to include in the negotiations as described in Subparagraph II A (2) any further Phases on the Work-Release/Pre-Release Facility, and Article 9 shall apply.
- VI. Principals that spend time for the betterment of the design of the Project expenses shall be computed as per Paragraph II.A.(1).b.

TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT

ARTICLE 1

ARCHITECT'S SERVICES

1.1 BASIC SERVICES

The Architect's Basic Services consist of the five phases described below and include normal structural, mechanical and electrical engineering services and any other services included in Article 14 as Basic Services.

SCHEMATIC DESIGN PHASE

1.1.1 The Architect shall review the program furnished by the Owner to ascertain the requirements of the Project and shall confirm such requirements to the Owner.

1.1.2 Based on the mutually agreed upon program, the Architect shall prepare Schematic Design Studies consisting of drawings and other documents illustrating the scale and relationship of Project components for approval by the Owner.

1.1.3 The Architect shall submit to the Owner a Statement of Probable Construction Cost based on current area, volume or other unit costs.

DESIGN DEVELOPMENT PHASE

1.1.4 The Architect shall prepare from the approved Schematic Design Studies, for approval by the Owner, the Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the entire Project as to structural, mechanical and electrical systems, materials and such other essentials as may be appropriate.

1.1.5 The Architect shall submit to the Owner a further Statement of Probable Construction Cost.

CONSTRUCTION DOCUMENTS PHASE

1.1.6 The Architect shall prepare from the approved Design Development Documents, for approval by the Owner, Drawings and Specifications setting forth in detail the requirements for the construction of the entire Project including the necessary bidding information, and shall assist in the preparation of bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and the Contractor.

1.1.7 The Architect shall advise the Owner of any adjustments to previous Statements of Probable Construction Cost indicated by changes in requirements or general market conditions.

1.1.8 The Architect shall assist the Owner in filing the required documents for the approval of governmental authorities having jurisdiction over the Project.

BIDDING OR NEGOTIATION PHASE

1.1.9 The Architect, following the Owner's approval of the Construction Documents and of the latest Statement

of Probable Construction Cost, shall assist the Owner in obtaining bids or negotiated proposals, and in awarding and preparing construction contracts.

CONSTRUCTION PHASE—ADMINISTRATION OF THE CONSTRUCTION CONTRACT

1.1.10 The Construction Phase will commence with the award of the Construction Contract and will terminate when the final Certificate for Payment is issued to the Owner.

1.1.11 The Architect shall provide Administration of the Construction Contract as set forth in AIA Document A201, General Conditions of the Contract for Construction, and the extent of his duties and responsibilities and the limitations of his authority as assigned thereunder shall not be modified without his written consent.

1.1.12 The Architect, as the representative of the Owner during the Construction Phase, shall advise and consult with the Owner and all of the Owner's instructions to the Contractor shall be issued through the Architect. The Architect shall have authority to act on behalf of the Owner to the extent provided in the General Conditions unless otherwise modified in writing.

1.1.13 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

1.1.14 The Architect shall make periodic visits to the site to familiarize himself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of his on-site observations as an architect, he shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor. The Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and he shall not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

1.1.15 Based on such observations at the site and on the Contractor's Applications for Payment, the Architect shall determine the amount owing to the Contractor and shall issue Certificates for Payment in such amounts. The issuance of a Certificate for Payment shall constitute a representation by the Architect to the Owner, based on the Architect's observations at the site as provided in Subparagraph 1.1.14 and the data comprising the Application for Payment, that the Work has progressed to the point indicated; that to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by the Contract

Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Certificate for Payment); and that the Contractor is entitled to payment in the amount certified. By issuing a Certificate for Payment, the Architect shall not be deemed to represent that he has made any examination to ascertain how and for what purpose the Contractor has used the moneys paid on account of the Contract Sum.

1.1.16 The Architect shall be, in the first instance, the interpreter of the requirements of the Contract Documents and the impartial judge of the performance thereunder by both the Owner and Contractor. The Architect shall make decisions on all claims of the Owner or Contractor relating to the execution and progress of the Work and on all other matters or questions related thereto. The Architect's decisions in matters relating to artistic effect shall be final if consistent with the intent of the Contract Documents.

1.1.17 The Architect shall have authority to reject Work which does not conform to the Contract Documents. Whenever, in his reasonable opinion, he considers it necessary or advisable to insure the proper implementation of the intent of the Contract Documents, he will have authority to require special inspection or testing of any Work in accordance with the provisions of the Contract Documents whether or not such Work be then fabricated, installed or completed.

1.1.18 The Architect shall review and approve shop drawings, samples, and other submissions of the Contractor only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents.

1.1.19 The Architect shall prepare Change Orders.

1.1.20 The Architect shall conduct inspections to determine the Dates of Substantial Completion and final completion, shall receive and review written guarantees and related documents assembled by the Contractor, and shall issue a final Certificate for Payment.

1.1.21 The Architect shall not be responsible for the acts or omissions of the Contractor, or any Subcontractors, or any of the Contractor's or Subcontractors' agents or employees, or any other persons performing any of the Work.

1.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

1.2.1 If more extensive representation at the site than is described under Subparagraphs 1.1.10 through 1.1.21 inclusive is required, and if the Owner and Architect agree, the Architect shall provide one or more Full-Time Project Representatives to assist the Architect.

1.2.2 Such Full-Time Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as mutually agreed between the Owner and the Architect as set forth in an exhibit appended to this Agreement.

1.2.3 The duties, responsibilities and limitations of authority of such Full-Time Project Representatives shall be set forth in an exhibit appended to this Agreement.

1.2.4 Through the on-site observations by Full-Time Project Representatives of the Work in progress, the Architect shall endeavor to provide further protection for the Owner against defects in the Work, but the furnishing of such project representation shall not make the Architect responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs, or for the Contractor's failure to perform the Work in accordance with the Contract Documents.

1.3 ADDITIONAL SERVICES

The following Services shall be provided when authorized in writing by the Owner, and they shall be paid for by the Owner as hereinbefore provided.

1.3.1 Providing analyses of the Owner's needs, and programming the requirements of the Project.

1.3.2 Providing financial feasibility or other special studies.

1.3.3 Providing planning surveys, site evaluations, environmental studies or comparative studies of prospective sites.

1.3.4 Providing design services relative to future facilities, systems and equipment which are not intended to be constructed as part of the Project.

1.3.5 Providing services to investigate existing conditions or facilities or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the Owner.

1.3.6 Preparing documents for alternate bids or out-of-sequence services requested by the Owner.

1.3.7 Providing Detailed Estimates of Construction Cost or detailed quantity surveys or inventories of material, equipment and labor.

1.3.8 Providing interior design and other services required for or in connection with the selection of furniture and furnishings.

1.3.9 Providing services for planning tenant or rental spaces.

1.3.10 Making revisions in Drawings, Specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given and are due to causes beyond the control of the Architect.

1.3.11 Preparing supporting data and other services in connection with Change Orders if the change in the Basic Compensation resulting from the adjusted Contract Sum is not commensurate with the services required of the Architect.

1.3.12 Making investigations involving detailed appraisals and valuations of existing facilities, and surveys or inventories required in connection with construction performed by the Owner.

1.3.13 Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing professional services of the type

set forth in Paragraph 1.1 as may be required in connection with the replacement of such Work.

1.3.14 Providing professional services made necessary by the default of the Contractor or by major defects in the Work of the Contractor in the performance of the Construction Contract.

1.3.15 Preparing a set of reproducible record prints of drawings showing significant changes in the Work made during the construction process, based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

1.3.16 Providing extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

1.3.17 Providing services after issuance to the Owner of the final Certificate for Payment.

1.3.18 Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding.

1.3.19 Providing services of professional consultants for other than the normal structural, mechanical and electrical engineering services for the Project.

1.3.20 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

ARTICLE 2

THE OWNER'S RESPONSIBILITIES

2.1 The Owner shall provide full information, including a complete program, regarding his requirements for the Project.

2.2 The Owner shall designate, when necessary, a representative authorized to act in his behalf with respect to the Project. The Owner shall examine documents submitted by the Architect and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Architect's services.

2.3 The Owner shall furnish a certified land survey of the site giving, as applicable, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and complete data pertaining to existing buildings, other improvements and trees; and full information concerning available service and utility lines both public and private, above and below grade, including inverts and depths.

2.4 The Owner shall furnish the services of a soils engineer or other consultant when such services are deemed necessary by the Architect, including reports, test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests and other necessary operations for determining subsoil, air and water conditions, with appropriate professional recommendations.

2.5 The Owner shall furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Contract Documents.

2.6 The Owner shall furnish such legal, accounting, and insurance counseling services as may be necessary for the Project, and such auditing services as he may require to ascertain how or for what purposes the Contractor has used the moneys paid to him under the Construction Contract.

2.7 The services, information, surveys and reports required by Paragraphs 2.3 through 2.6 inclusive shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

2.8 If the Owner becomes aware of any fault or defect in the Project or non-conformance with the Contract Documents, he shall give prompt written notice thereof to the Architect.

2.9 The Owner shall furnish information required of him as expeditiously as necessary for the orderly progress of the Work.

ARTICLE 3

CONSTRUCTION COST

3.1 If the Construction Cost is to be used as the basis for determining the Architect's Compensation for Basic Services, it shall be the total cost or estimated cost to the Owner of all Work designed or specified by the Architect. The Construction Cost shall be determined as follows, with precedence in the order listed:

3.1.1 For completed construction, the cost of all such Work, including costs of managing construction;

3.1.2 For Work not constructed, (1) the lowest bona fide bid received from a qualified bidder for any or all of such Work, or (2) if the Work is not bid, the bona fide negotiated proposal submitted for any or all of such Work; or

3.1.3 For Work for which no such bid or proposal is received, (1) the latest Detailed Estimate of Construction Cost if one is available, or (2) the latest Statement of Probable Construction Cost.

3.2 Construction Cost does not include the compensation of the Architect and his consultants, the cost of the land, rights-of-way, or other costs which are the responsibility of the Owner as provided in Paragraphs 2.3 through 2.6 inclusive.

3.3 The cost of labor, materials and equipment furnished by the Owner for the Project shall be included in the Construction Cost at current market rates including a reasonable allowance for overhead and profit.

3.4 Statements of Probable Construction Cost and Detailed Cost Estimates prepared by the Architect represent his best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has any control over the cost of labor, materials or equipment, over the contractors' methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, the

Architect cannot and does not guarantee that bids will not vary from any Statement of Probable Construction Cost or other cost estimate prepared by him.

3.5 When a fixed limit of Construction Cost is established as a condition of this Agreement, it shall be in writing signed by the parties and shall include a bidding contingency of ten percent unless another amount is agreed upon in writing. When such a fixed limit is established, the Architect shall be permitted to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, and to make reasonable adjustments in the scope of the Project to bring it within the fixed limit. The architect may also include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit.

3.5.1 If the Bidding or Negotiating Phase has not commenced within six months after the Architect submits the Construction Documents to the Owner, any fixed limit of Construction Cost established as a condition of this Agreement shall be adjusted to reflect any change in the general level of prices which may have occurred in the construction industry for the area in which the Project is located. The adjustment shall reflect changes between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.

3.5.2 When a fixed limit of Construction Cost, including the Bidding contingency (adjusted as provided in Subparagraph 3.5.1, if applicable), is established as a condition of this Agreement and is exceeded by the lowest bona fide bid or negotiated proposal, the Detailed Estimate of Construction Cost or the Statement of Probable Construction cost, the Owner shall (1) give written approval of an increase in such fixed limit, (2) authorize rebidding the Project within a reasonable time, or (3) cooperate in revising the Project scope and quality as required to reduce the Probable Construction Cost. In the case of (3) the Architect, without additional charge, shall modify the Drawings and Specifications as necessary to bring the Construction Cost within the fixed limit. The providing of such service shall be the limit of the Architect's responsibility in this regard, and having done so, the Architect shall be entitled to compensation in accordance with this Agreement.

ARTICLE 4

DIRECT PERSONNEL EXPENSE

Direct Personnel Expense is defined as the salaries of professional, technical and clerical employees engaged on the Project by the Architect, and the cost of their mandatory and customary benefits such as statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar benefits.

ARTICLE 5

REIMBURSABLE EXPENSES

5.1 Reimbursable Expenses are in addition to the Compensation for Basic and Additional Services and include actual expenditures made by the Architect, his employ-

ees, or his professional consultants in the interest of the Project for the expenses listed in the following Subparagraphs:

5.1.1 Expense of transportation and living when traveling in connection with the Project; long distance calls and telegrams; and fees paid for securing approval of authorities having jurisdiction over the Project.

5.1.2 Expense of reproductions, postage and handling of Drawings and Specifications excluding duplicate sets at the completion of each Phase for the Owner's review and approval.

5.1.3 If authorized in advance by the Owner, expense of overtime work requiring higher than regular rates and expense of renderings or models for the Owner's use.

5.1.4 Expense of computer time for professional services when included in Paragraph II.

5.1.5 Expense of computer time when used in connection with Additional Services.

ARTICLE 6

PAYMENTS TO THE ARCHITECT

6.1 Payments on account of the Architect's Basic Services shall be made as follows:

6.1.1 An initial payment as set forth in Paragraph II is the minimum payment under this Agreement.

6.1.2 Subsequent payments for Basic Services shall be made monthly in proportion to services performed so that the compensation at the completion of each Phase, except when the compensation is on the basis of a Multiple of Direct Personnel Expense, shall equal the following percentages of the total Basic Compensation:

Schematic Design Phase	15%
Design Development Phase	35%
Construction Documents Phase ...	75%
Bidding or Negotiation Phase	80%
Construction Phase	100%

6.1.3 If the Contract Time initially established in the Construction Contract is exceeded by more than thirty days through no fault of the Architect, compensation for Basic Services performed by Principals, employees and professional consultants required to complete the Administration of the Construction Contract beyond the thirtieth day shall be computed as set forth in Paragraph II for Additional Services.

6.2 Payments for Additional Services of the Architect as defined in Paragraph 1.3, and for Reimbursable Expenses as defined in Article 5, shall be made monthly upon presentation of the Architect's statement of services rendered.

6.3 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages, or other sums withheld from payments to contractors.

6.4 If the Project is suspended for more than three months or abandoned in whole or in part, the Architect

shall be paid his compensation for services performed prior to receipt of written notice from the Owner of such suspension or abandonment, together with Reimbursable Expenses then due and all termination expenses as defined in Paragraph 8.3 resulting from such suspension or abandonment. If the Project is resumed after being suspended for more than three months, the Architect's compensation shall be subject to renegotiation.

6.5 Payments due the Architect under this Agreement shall bear interest at the legal rate commencing sixty days after the date of billing.

ARTICLE 7

ARCHITECT'S ACCOUNTING RECORDS

Records of Reimbursable Expenses and expenses pertaining to Additional Services on the Project and for services performed on the basis of a Multiple of Direct Personnel Expense shall be kept on a generally recognized accounting basis and shall be available to the Owner or his authorized representative at mutually convenient times.

ARTICLE 8

TERMINATION OF AGREEMENT

8.1 This Agreement may be terminated by either party upon seven days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.

8.2 In the event of termination due to the fault of parties other than the Architect, the Architect shall be paid his compensation for services performed to termination date, including Reimbursable Expenses then due and all termination expenses.

8.3 Termination Expenses are defined as Reimbursable Expenses directly attributable to termination, plus an amount computed as a percentage of the total compensation earned to the time of termination, as follows:

- 20 percent if termination occurs during the Schematic Design Phase; or
- 10 percent if termination occurs during the Design Development Phase; or
- 5 percent if termination occurs during any subsequent phase.

ARTICLE 9

OWNERSHIP OF DOCUMENTS

Drawings and Specifications as instruments of service are and shall remain the property of the Architect whether the Project for which they are made is executed or not. They are not to be used by the Owner on other projects or extensions to this Project except by agreement in writing and with appropriate compensation to the Architect.

ARTICLE 10

SUCCESSORS AND ASSIGNS

The Owner and the Architect each binds himself, his partners, successors, assigns and legal representatives to

the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign, sublet or transfer his interest in this Agreement without the written consent of the other.

ARTICLE 11

ARBITRATION

11.1 All claims, disputes and other matters in question between the parties to this Agreement, arising out of, or relating to this Agreement or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise. No arbitration, arising out of, or relating to this Agreement, shall include, by consolidation, joinder or in any other manner, any additional party not a party to this Agreement except by written consent containing a specific reference to this Agreement and signed by all the parties hereto. Any consent to arbitration involving an additional party or parties shall not constitute consent to arbitration of any dispute not described therein or with any party not named or described therein. This Agreement to arbitrate and any agreement to arbitrate with an additional party or parties duly consented to by the parties hereto shall be specifically enforceable under the prevailing arbitration law.

11.2 Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

11.3 The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 12

EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

ARTICLE 13

GOVERNING LAW

Unless otherwise specified, this Agreement shall be governed by the law of the principal place of business of the Architect.

ARTICLE 14

OTHER CONDITIONS OR SERVICES

In the TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT add to or delete from as follows:

14.1 Add new Subparagraph 1.1.3.1 as follows:

"1.1.3.1 FINAL SCHEMATIC DRAWINGS, including OUTLINE SPECIFICATIONS and PROBABLE CONSTRUCTION COST shall be approved by the OWNER in writing."

14.2 Add new Subparagraph 1.1.5.1 as follows:

"1.1.5.1 FINAL DESIGN DEVELOPMENT PHASE DRAWINGS AND PROBABLE CONSTRUCTION COST shall be approved by the OWNER in writing."

14.3 Add new Subparagraph 1.1.8.1 as follows:

"1.1.8.1 Prior to advertising for bids FINAL CONSTRUCTION DOCUMENTS including PROBABLE CONSTRUCTION COST shall be approved by the OWNER in writing."

14.4 Following Subparagraph 1.1.9 add the following:

"ADDITIONAL BASIC SERVICES

"1.1.9.1 Pre-Design Analysis

- a. Investigate and analyze building system to include Alternate Structural and Mechanical Systems.
- "b. Visit other correctional facilities deemed appropriate by the Owner."
- c. Consult and assist as requested at public hearings, legal proceedings and presentations.
- d. Provide site evaluation, environmental studies, or comparative studies of prospective sites when requested by Owner.

1.1.9.2 Multiple Contracts

- a. Prepare separate bid documents for various segments of the project to be bid by multiple contracts.
- b. Assist OWNER'S CONSTRUCTION MANAGER in coordinating and managing the multiple contracts.
- c. Prepare document for construction of "mock-up" of portions of the construction contract.

ARTICLE 14

OTHER CONDITIONS OR SERVICES

In the TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT add to or delete from as follows:

14.1 Add new Subparagraph 1.1.3.1 as follows:

"1.1.3.1 FINAL SCHEMATIC DRAWINGS, including OUTLINE SPECIFICATIONS and PROBABLE CONSTRUCTION COST shall be approved by the OWNER in writing."

14.2 Add new Subparagraph 1.1.5.1 as follows:

"1.1.5.1 FINAL DESIGN DEVELOPMENT PHASE DRAWINGS AND PROBABLE CONSTRUCTION COST shall be approved by the OWNER in writing."

14.3 Add new Subparagraph 1.1.8.1 as follows:

"1.1.8.1 Prior to advertising for bids FINAL CONSTRUCTION DOCUMENTS including PROBABLE CONSTRUCTION COST shall be approved by the OWNER in writing."

14.4 Following Subparagraph 1.1.9 add the following:

"ADDITIONAL BASIC SERVICES

"1.1.9.1 Pre-Design Analysis

- a. Investigate and analyze building system to include Alternate Structural and Mechanical Systems.
- "b. Visit other correctional facilities deemed appropriate by the Owner."
- c. Consult and assist as requested at public hearings, legal proceedings and presentations.
- d. Provide site evaluation, environmental studies, or comparative studies of prospective sites when requested by Owner.

1.1.9.2 Multiple Contracts

- a. Prepare separate bid documents for various segments of the project to be bid by multiple contracts.
- b. Assist OWNER'S CONSTRUCTION MANAGER in coordinating and managing the multiple contracts.
- c. Prepare document for construction of "mock-up" of portions of the construction contract.

1.1.9.3 Cost Analysis

- a. Prepare Value Engineering Study
- b. Prepare Life Cycle Costing Study

1.1.9.4 Prepare "as built" drawing for the first of each of the prototype facilities constructed.

1.1.9.5 Develop design models of the facilities as requested by the Owner.

14.5 Under Paragraph 1.3, delete Subparagraphs 1.3.1, 1.3.3, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.9, 1.3.11, 1.3.15, 1.3.17 and 1.3.18 in their entirety.

14.6 Add new Subparagraph 3.5.0.1 as follows:

"3.5.0.1 Fixed limit of Construction Cost shall be the PROBABLE CONSTRUCTION COST as defined in Subparagraph 1.1.8.1.

14.7 In Subparagraph 6.1.2, third line following----each Phase, delete remaining of the sentence and sub-heading and substitute therefor the following.

"---, shall be not more than the following percentages of the total Basic Compensation:

"Predesign Analysis Phase	-----	3%
Schematic Design Phase	-----	18%
Design Development Phase	-----	38%
Construction Document Phase	-----	78%
Bidding or Negotiation Phase	-----	83%
Construction Phase	-----	100%"

14.8 Add New Subparagraph 6.1.2.1 and 6.1.2.2 as follows:

"6.1.2.1 Payment for Basic Services shall be made monthly for services performed by the Architect for the preceding monthly accounting period of the Architect.

"6.1.2.2 Monthly Request for Payment shall show name personnel, rate of pay (salary) and job classification, with summary of request for payment on form furnished by the Owner."

14.9 In Subparagraph 6.1.3, second line following Construction Contract delete--- "is exceeded by more than thirty days" and substitute therefor the following:

"---, or by Change Order to the Construction Contract, is exceeded by more than sixty days-----"

- 14.10.1 In Paragraph 6.4, page 7, fourth line following-----then due add"." (period) and delete remaining of sentence.
- 14.10.2 In paragraph 6.4, page 7, delete last line in its entirety and substitute therefor the following:
"Compensation may be subject to negotiation at the option of the Owner."
- 14.11 Delete Paragraph 6.5 in its entirety.
- 14.12 In Paragraph 8.2 in fourth line following Reimbursable Expense add "." (period) and delete remaining of sentence.
- 14.13 Delete Paragraph 8.3 in its entirety.
- 14.14 In Article 9 - OWNERSHIP OF DOCUMENTS delete in its entirety and add new Article 9 as follows:

"ARTICLE 9"
"OWNERSHIP OF DOCUMENTS"

"9.1 The Owner shall have unlimited rights in the ownership of all drawings, designs, specifications, notes and other work developed in the performance of the AGREEMENT, including the right to use same on any other Owner's projects without additional cost to the Owner, and with respect thereto the Architect agrees to and does hereby grant to the Owner a royalty-free license to all such data which he may cover by copyright and to all designs as to which he may assert any rights or establish any claim under the design patent or copyright laws.

"9.2 In the case of future reuse of the documents the Owner reserves the right to negotiate with the Architect for compensation for the acceptance of any professional liability."

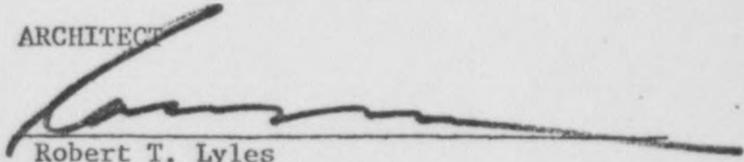
- 14.15 Delete Article 11 - Arbitration in its entirety.
- 14.16 Under Article 13 - Governing Laws second line following---law of, delete remaining of sentence and substitute therefor the following:
"-----South Carolina."
- 14.17 Review Submittals as required by Owner in each Phase shall also be submitted to the State Engineer's Office for approval.
- 14.18 See Attachment "A"

This Agreement executed the day and year first written above.

OWNER

William D. Leeke, Director
South Carolina Department
of Corrections

ARCHITECT



Robert T. Lyles
Wilbur Smith and Associates, Inc.

800

EXHIBIT "A"
(14.18)

Wilbur Smith and Associates

CABLE WILSMITH
TELEX 57-3439

BANKERS TRUST TOWER

Columbia, S. C. 29202

PHONE: (803) 779-6080

May 18, 1977

Mr. William D. Leeke, Commissioner
South Carolina Department of Corrections
4444 Broad River Road
Columbia, South Carolina

Re: A Medium Security Correctional Facility; A Minimum
Security Correctional Facility; and A Work-Release/
Pre-Release Facility

Dear Mr. Leeke:

As discussed during our interview and contract negotiations the associated firms of Wilbur Smith and Associates and Hellmuth, Obata and Kassabaum, Inc. will accomplish the above referenced projects on an equal basis with the predominance of work being performed in the Columbia offices of Wilbur Smith and Associates.

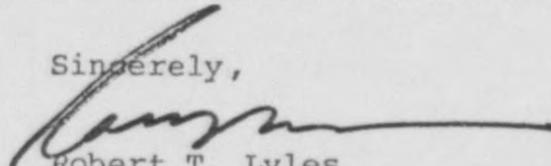
To illustrate, our internal agreement is that in general, and subject to your approval, the following is a listing of tasks to be performed and the lead firm responsible for each:

- Pre-design analysis--HOK
- Architectural production--WSA
- Mechanical--HOK
- Electrical--HOK
- Structural--WSA
- Civil infrastructure--WSA
- Services during construction--WSA

Wilbur Smith and Associates will serve as project coordinator to assure a single point of contact and responsibility.

Please call if additional information or clarification is required.

Sincerely,



Robert T. Lyles
Director, Architectural Division

RTL/ms

801

EXHIBIT XII
5/24/77

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

AMORTIZATION ARRANGEMENT

WHEREAS the General Assembly of the State of South Carolina by Act No. 354, Part II, Section 3, Item 23, Acts and Joint Resolutions of 1973, authorized the issuance of \$4,000,000.00 in capital improvement bonds for the purpose of the construction of an administrative building for the South Carolina Employment Security Commission conditioned upon approval of agreement with the appropriate Federal authorities under which Federal funds will be available to cover the retirement of the bonds, and

WHEREAS the United States Department of Labor is committed by law to provide sufficient funds each year for rental of space to be occupied by the State Employment Security agency which funds may be applied toward the amortization of the cost of such space until the cost of the space has been fully paid by such grants after which the State Employment Security agency will be granted funds by the Federal government for operational and maintenance costs only, and

WHEREAS the State of South Carolina, by and through its State Budget and Control Board, has constructed a proper office building with supporting parking facilities for the use of the central administrative offices of the said South Carolina Employment Security Commission which is now occupied by said Commission, said building being located in the City of Columbia, State of South Carolina, being bounded by Taylor, Hampton, Lincoln and Gadsden Streets, with said building having 75,247 square feet of usable office space and having a total final cost of not less than Four Million (\$4,000,000.00) Dollars.

NOW THEREFORE, BE IT RESOLVED, COVENANTED, AND AGREED BETWEEN THE SOUTH CAROLINA STATE BUDGET AND CONTROL BOARD (hereinafter referred to as the "Board") AND THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION (hereinafter referred to as the "Commission").

1. That the said Commission will be the sole occupant and will have the exclusive use of said building.
2. Maintenance and repairs to the building shall be provided by

the State of South Carolina pursuant to other agreements and understandings with the Commission; provided, however, it is understood and agreed that renovations, refurbishing, partitioning, and similar requests of the Commission shall be at the expense of the Commission.

3. The Commission shall make amortization payments at the rate of \$4.6367 per square foot per annum in the total annual sum of \$348,900.44, in addition to operation and maintenance costs, said payment to be made by the total application of funds granted by the Employment and Training Administration of the United States Department of Labor as rental for the said space occupied by the Commission.

4. The title to the said land and improvements is and shall be in the State of South Carolina.

5. The original cost of the building will be amortized through the application thereto of all funds paid to the Board by the Commission as rent as set out in paragraph 3, supra. The amortization schedule is attached hereto and made a part hereof. Only funds granted by the Employment and Training Administration of the United States Department of Labor, or as such funds shall otherwise be designated and dispersed, for rental of space in the building shall be used toward the amortization of the cost of such space.

6. When the final amortization of the cost of the building has been fully met by Federal rental grants, the rental payments shall thereupon be terminated and the Commission from that time shall have continued exclusive occupancy of the building, provided, however, that the Commission will thereafter pay all operational and maintenance costs of the building to the extent that funds are made available for this purpose by Federal grants.

7. The parties hereto bind themselves and their successors in office that the Commission will acquire and retain equity in the building based upon granted funds which have been used to amortize the costs thereof upon the following terms and conditions:

(a) In the event the Commission is required by the State of South Carolina to vacate the building, through no fault of the Commission, before or after the cost of the same has been amortized through the application

of funds granted for rental, similar suitable space shall be provided for the Commission or appropriate reimbursement of the Federal Funds provided under this Amortization Arrangement will be made to the Commission for their use in acquiring other space;

(b) In the event the Commission, with the approval of the Budget and Control Board, voluntarily relinquishes the space and building without any demand or requirement therefor by the State, then the Commission shall be entitled to that equity determined to be the ratio of granted funds applied to amortization to the cost of the building on such terms as may be agreeable to the parties or to similar suitable space.

8. The parties hereto bind themselves and their successors in office that under no circumstances will the State of South Carolina realize a profit as a consequence of the application of Federal rental funds to the amortization of the building and that the Commission will retain equity in the building to the extent that granted funds are used to amortize the cost of the building.

SIGNED AND SEALED at Columbia, South Carolina, this _____ day of _____, 1977.

WITNESS:

A. _____, Chairman
SOUTH CAROLINA BUDGET AND CONTROL BOARD

_____, Secretary
SOUTH CAROLINA BUDGET AND CONTROL BOARD

B. _____, Chairman
SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION

_____, Executive
Director, S.C. EMPLOYMENT SECURITY COMMISSION

EMPLOYMENT SECURITY ADMINISTRATION BUILDING

Amortization Schedule

\$4,000,000 @ 5 1/4% for 18 years

$.08722511 \times \$4,000,000 = \$348,900.44$

<u>Year</u>	<u>Total Annual Payment</u>	<u>Interest</u>	<u>Principal</u>	<u>Principal Balance</u>
1976-77	\$348,900.44	\$210,000.00	\$138,900.44	\$3,861,099.56
1977-78	348,900.44	202,707.73	146,192.71	3,714,906.85
1978-79	348,900.44	195,032.61	153,867.83	3,561,039.02
1979-80	348,900.44	186,954.55	161,945.89	3,399,093.13
1980-81	348,900.44	178,452.39	170,448.05	3,228,645.08
1981-82	348,900.44	169,503.87	179,396.57	3,049,248.51
1982-83	348,900.44	160,085.55	188,814.89	2,860,433.62
1983-84	348,900.44	150,172.77	198,727.67	2,661,705.95
1984-85	348,900.44	139,739.56	209,160.88	2,452,545.07
1985-86	348,900.44	128,758.62	220,141.82	2,232,403.25
1986-87	348,900.44	117,201.17	231,699.27	2,000,703.98
1987-88	348,900.44	105,036.96	243,863.48	1,756,840.50
1988-89	348,900.44	92,234.13	256,666.31	1,500,174.19
1989-90	348,900.44	78,759.14	270,141.30	1,230,032.89
1990-91	348,900.44	64,576.73	284,323.71	945,709.18
1991-92	348,900.44	49,649.73	299,250.71	646,458.47
1992-93	348,900.44	33,939.07	314,961.37	331,497.10
1993-94	348,900.70	17,403.60	331,497.10	-0-

STATE BUDGET AND CONTROL BOARD

MEETING OF May 24, 1977

EXHIBIT XIII
5/24/77
9
AGENDA ITEM NUMBER _____

Agency:

State Personnel Division

Subject:

The Department of Mental Health's request to increase payment to staff physicians that are required to work the night shift and week-end duty as administrative officer in charge at the Department's institution.

Board Action Requested:

Approval requested

Staff Comment:

The State Personnel Division staff recommends approval of rates as stated on the attached memo.

Attachments:

See attached memo

ON CALL PAY FOR PHYSICIANS IN DEPARTMENT OF MENTAL HEALTH

Revised - see attached

Recommend Physicians in Department of Mental Health be paid \$156 per night for week-night duty and \$195 for week-end duty. This is based on payment at the rate of \$13 per hour, which is the average rate for Physician I's in the Department, for a 12 hour shift during the week and a 15 hour shift on week-ends. It is further recommended that this extra duty be limited to non-supervisory Physicians and Psychiatrists only, and that all such employees in the affected institutions be required to participate on a regular, rotating basis.

The agency requested approval for payment at the rate of \$100 per night. However, this would be lower than the minimum hourly rate for the Physician I class, and we feel that the rate we are proposing is more equitable in view of the undesirability of this duty and the additional administrative responsibilities involved.

The Department of Mental Health also endorses the approval of this higher rate.

ITEM 9, REGULAR SESSION AGENDA
ATTACHMENT (REVISED 5/23/77)

ON CALL PAY FOR PHYSICIANS IN DEPARTMENT OF MENTAL HEALTH

Recommend Physicians in Department of Mental Health be paid \$195 per night for week-night duty and \$156 for week-end duty. This is based on payment at the rate of \$13 per hour, which is the average rate for Physician I's in the Department, for a 15 hour shift during the week and a 12 hour shift on week-ends. It is further recommended that this extra duty be limited to non-supervisory Physicians and Psychiatrists only, and that all such employees in the affected institutions be required to participate on a regular, rotating basis.

The agency requested approval for payment at the rate of \$100 per night. However, this would be lower than the minimum hourly rate for the Physician I class, and we feel that the rate we are proposing is more equitable in view of the undesirability of this duty and the additional administrative responsibilities involved.

The Department of Mental Health also endorses the approval of this higher rate.

Agency:

State Personnel Division

Subject:

The State Personnel Division request approval of eight new positions for FY-1977-78. These positions will be responsible for working with and implementing the new insurance accounting and enrollment system. These positions will work along with the consultants in assisting in the design and will be responsible for implementing the new system as well as continuing maintenance and updating.

Board Action Requested:

Board approval

Staff Comment:

The eight positions are comprised of the following classifications:

Accountant II
Auditor II
Accounting Clerk III
Insurance Claims Analyst

Computer Programmer I
Programmer Analyst
Programmer Analyst
Data Control Clerk

Attachments:

EXHIBIT XV # 5/24/77
70651

STATE AUDITOR'S OFFICE

REPORT ON CONSULTANTS

Name of State Agency: Office of the Governor, Division of Administration, Office of Coastal Plains

Date of Report: May 23, 1977 Prepared by: Archie L. Todd, Jr.

Name of Consultant or Firm: Office of Planning

Address of Consultant or Firm: 214 Wade Hampton Building, P.O.Box 11333, Columbia S.C. 29211

Terms of Consultant Contract:

Beginning Date: July 1, 1976 Ending Date: September 30, 1977

Rate of Pay: \$ _____ per _____; Maximum under this contract: \$25,000

Source of Funds: _____ (%); \$25,000 (100%); _____ (%).
(State) (Federal) (Other)

Purpose Or Goal of Consultant:

Identify and define at one point in time, the principal economic issues facing South Carolina and analyze their implications. Also, the assessment or evaluation of programs will be turned into a State Planning Process to provide management with the means to improve program performance, account accurately for the use of public funds, and make informed decisions.

Was this Individual or Firm Selected through the Submission of Bids or Proposals?

Yes _____ No X

If yes, How many Bids or Proposals were Received? _____

APPROVED
MAY 24 1977
Budget + Control Board
WAM
810



State of South Carolina

Office of the Governor

5/24/77

JAMES B. EDWARDS
GOVERNOR

DIVISION OF ADMINISTRATION
Edgar A. Brown Building
Columbia, South Carolina 29201

MEMORANDUM

TO: Bill McInnis
FROM: H. Max Nesbitt *HMN/mg*
SUBJECT: Consultant Contract(s) for Approval

Attached are the following consultant contracts for your approval:

Office of State Planning (#70651).

If there are questions concerning these contracts, please let me know. All contracts and approvals should be returned to -

Marge Godfrey, Contract Officer
Division of Administration
Room 463, Edgar A. Brown Building.

HMN/mg

Enclosures