

MINUTES OF BUDGET AND CONTROL BOARD MEETING

OCTOBER 4 1973

Subsequent to the budget hearings of October 4, 1973, the Budget and Control Board met at 5:00 p. m. to consider other pending matters. Board members in attendance were.

Governor John C. West  
Senator Rembert C. Dennis  
Mr. R. J. Aycock  
Mr. Henry Mills  
Mr. Grady L. Patterson, Jr.

Also in attendance were Messrs. P. C. Smith, W. T. Putnam and W. A. McInnis.

The following business was conducted.

SELECTION OF ARCHITECTS - The following agencies presented requests for the hiring of architects for construction projects.

Employment Security Commission  
Architects - Geiger, McElveen & Kennedy

Parks Recreation and Tourism  
Architects - McMillan, Bunes, Townsend & Bowen

Adjutant General  
Architects - Holladay, Coleman, Williams and Associates

Medical University - request approval of following architects  
Combined Facilities - Perkins & Will and Lockwood Greene  
Allied Health Building - Geiger, McElveen & Kennedy  
Continuing Education Building - Lyles, Bissett, Carlyle & Wolfe

The Board approved the recommendation of Parks Recreation and Tourism to hire the architectural firm of McMillan, Bunes, Townsend & Bowen for phase 1 development of the Keowee-Toxaway State Park. The request of the Adjutant General for the hiring of the architectural firm of Holladay, Coleman, Williams and Associates was also approved.

At the suggestion of Mr. Henry Mills, action upon the request of the Employment Security Commission was deferred until a subsequent meeting.

At the request of Governor West, consideration of the three architectural firms suggested by the Medical University was deferred until a later date.

Copies of correspondence from each of the four agencies has

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been retained in these files and are identified as Exhibits I through IV, respectively.

FOREIGN TRAVEL - Three separate State agencies requested foreign travel for employees as listed below.

Mental Health Commission - Ms. Pamela Y. Drake to attend conference in Montreux, Switzerland.

Clemson University - Dr. S. C. Anand and Dr. H. W. Busching to attend conference in Montreal, Canada.

University of South Carolina - Mrs. Eileen C. Leaphart to attend a conference in Puerto Rico.

University of South Carolina - D. J. Colquhoun to attend a conference in New Zealand.

Clemson University - Dr. John W. Huffman to attend a conference in Kingston, Jamaica.

The Board approved each of these requests.

The five letters of request have been retained in these files and are collectively identified as Exhibit V.

INDUSTRIAL REVENUE BONDS - The Board approved the following petitions for Industrial Revenue Bonds.

Aiken County	\$600,000
Tilbury Associates, lessee	
Greenville County	1,000,000
Emery Industries	

Data pertaining to each of these petitions have been retained in these files and are identified as Exhibits VI and VII, respectively.

DEPARTMENT OF INSURANCE - In a letter dated September 24, 1973 Mr. Glen E. Craig, Acting Chief Insurance Commissioner, requested permission to continue the employment of Robert H. Hodges of the Department of Insurance who has reached seventy years of age.

The Board approved this request.

A copy of Mr. Craig's letter has been retained in these files and is identified as Exhibit VIII.

PARKS RECREATION AND TOURISM - In a letter dated September



5, 1973, Mr. Dwight A. Holder, Chairman of the Parks, Recreation and Tourism Commission, requested permission to withdraw the sum of approximately \$975,000 which is presently being held in escrow for the Roper Mountain Project which is located in Greenville County. He indicated that this project is being abandoned and that the funds should be made available for use in other parks.

On September 7, 1973 Mr. P. C. Smith replied to Mr. Holder indicating that, in his opinion, these funds were specifically authorized for Tricentennial capital projects and that the Board did not have statutory authority to modify this Legislative action. In its present meeting, the Board confirmed the opinion expressed by Mr. Smith and noted that it was in accord with the opinion of the Attorney General.

A copy of Mr. Holder's letter and the reply of Mr. Smith have been retained in these files and are collectively identified as Exhibit IX.

MEDICAL UNIVERSITY - In a letter dated September 19, 1973, Howard R. Boozer of the Commission on Higher Education advised that there was still some confusion concerning the salary of Dr. James W. Colbert, Jr., Vice President of the Medical University. Mr. Boozer suggested that the salary of Dr. Colbert be set at \$45,820 which will be \$388 less than the approved salary of Dr. McCord.

After discussing the matter, the Budget and Control Board approved a salary for Dr. Colbert of \$45,610 which is \$500 less than that of Dr. McCord.

The Board was agreed that the salary of Mr. John Wise, Vice President of Business Affairs of the Medical University, should be approved at its present level.

A copy of the letter from the Higher Education Commission has been retained in these files and is identified as Exhibit X.

PERSONNEL DIVISION - The Personnel Division submitted a list

of twenty-eight requests for dual employment, most of which involved institutions of higher learning. The Board approved all of these requests for a period of six months pending clarification of the dual employment question. A list of the twenty-eight requests has been retained in these files and is identified as Exhibit XI.

WINTHROP COLLEGE - In a letter dated September 28, 1973, Dr. Charles V. Vail, President of Winthrop College requested permission to appear before the Budget and Control Board during its current budget hearings. Dr. Vail noted that the various institutions of higher learning were not appearing individually for budget hearings but indicated that his position was peculiar because of the recent change of leadership at his Institution.

Board members agreed that it would be appropriate for Dr. Vail to appear before the Board, but felt that it should be at some meeting other than at the budget hearings. Therefore, it was agreed that Dr. Vail would be invited to appear at some later date.

A copy of Dr. Vail's letter is attached and is identified as Exhibit XII.

CAPITAL IMPROVEMENT BOND ALLOCATIONS - As directed at a previous Budget and Control Board meeting, Mr. P. C. Smith presented a report on the Capital Improvement Bond picture and submitted priority recommendations totaling \$2,419,000 for additional approval.

In a discussion of the matter of the bond limitation of \$35,000,000 as imposed by the General Assembly, Governor West indicated that he felt that the limit could be raised to \$50,000,000 without impairing the credit rating of the State. However, before making such a recommendation to the Legislature, Governor West requested that Mr. Grady L. Patterson contact the financial advisors and rating agencies to determine what impact, if any, such an increase would have upon the credit rating of South Carolina. Mr. Patterson agreed to study this matter.

Pending further study of the increase of the bond limit, Mr. P. C. Smith was directed to prepare a schedule of additional priority items for capital improvement bond funding with such priorities arranged in three \$5,000,000 increments to be reported at the next meeting of the Board.

The priority items as suggested in the report which was submitted by Mr. Smith were held in abeyance except for a request by the Department of Mental Retardation for \$330,000 for a partial payment on the Live Oak Nursing Home in Summerville, South Carolina. This item was considered to be of extreme urgency and was approved for funding by the Board.

The priority report of Mr. Smith has been retained in these files and is identified as Exhibit XIII.

GENERAL FUND REPORT 1972-73 - Mr. P. C. submitted a final report of General Fund operations for the fiscal year 1972-73 which showed an outstanding surplus as of June 30, 1973 of \$85,576,410.97. The report was discussed by Board members and then accepted as the official statement.

A copy of this report has been retained in these files and is identified as Exhibit XIV.

There being no further business, the Board adjourned at 6:00 p. m.



EXHIBIT I  
OCTOBER 4, 1973

South Carolina  
**Employment Security Commission**



C. LEM HARPER  
CHAIRMAN

W. MARSHALL COMER  
VICE-CHAIRMAN  
FRANK E. BALDWIN, JR.  
COMMISSIONER

Columbia  
September 26, 1973

PERSONAL & CONFIDENTIAL

Mr. P. C. Smith, Secretary  
S. C. Budget and Control Board  
Post Office Box 11333  
Columbia, South Carolina 29211

Dear Mr. Smith:

We are requesting permission of the S. C. Budget and Control Board to employ the architectural firm of Geiger, McElveen and Kennedy of Columbia, South Carolina, for the purpose of serving as architects for our new South Carolina Employment Security building.

We respectfully request an early decision or approval because of the urgency of us getting started with our building program. We have a limited amount of time left on our lease in the building which we presently occupy; therefore, we need to get started as quickly as possible.

Respectfully,

C. Lem Harper, Chairman

W. Marshall Comer, Vice-Chairman

Frank E. Baldwin, Jr., Commissioner

Comm/sts

September 27, 1973

Mr. C. Lem Harper, Chairman  
S. C. Employment Security Commission  
Post Office Box 995  
Columbia, South Carolina 29202

Dear Lem:

We shall be glad to present your request for approval of the architectural firm of Geiger, McElveen & Kennedy to the Budget and Control Board at a meeting next week.

In the meantime, we would appreciate your advising us that you followed details of the Board's required procedure in the selection and recommendation of this particular firm. We are enclosing a copy of the Board's regulations from which you will note the additional information to be submitted. I am sure the Board will want to know specifically that this procedure was followed fully.

Very truly yours,

P. C. Smith  
State Auditor

PCS:dr

Enclosure



September 21, 1973

Mr. P. C. Smith, State Auditor  
S. C. Budget & Control Board  
P. O. Box 11333  
Columbia, SC 29211

Dear Mr. Smith:

The State Park section of PRT has advertised and received resumes from five architects showing interest in planning Phase I development of Keowee-Toxaway State Park. Four of these architects were interviewed and after explaining the scope of the project, they were all asked a prepared list of questions. The scope of this project and a copy of the standard questions are enclosed.

After interviewing these architects we have selected three architects in the order of our preference. They are:

McMillan, Bunes, Townsend & Bowen  
609 N. Academy Street  
Greenville, SC 29602

Maynard Pearlstine & William Anderson  
3106 Devine Street  
Columbia, SC 29205

John Tabb Heyward, Jr.  
2320 Devine Street  
Columbia, SC 29205

Other architects responding were:

Craig and Gaulden, Architects  
1922 Augusta Road  
Greenville, SC 29605

Bruce Klee Brown  
511-B Wilton Street  
Greenville, SC 29609

We have talked with Mr. Michael McMillan, our contact with McMillan



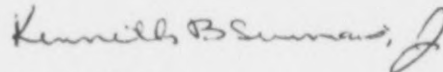
Mr. L. P. Hamilton

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September 21, 1973

Bunes Townsend and Bowen. PRT AND MBTB have agreed to work under the standard AIA contract and the compensation based on percentage of construction cost suggested by the S. C. Chapter of the American Institute of Architects.

Very truly yours,



Kenneth B. Simmons, Jr.  
State Park Planner

KBSjr/jl  
Enclosures



**Military Department**

ROBERT L. MCCRADY  
MAJOR GENERAL  
THE ADJUTANT GENERAL

STATE OF SOUTH CAROLINA  
OFFICE OF THE ADJUTANT GENERAL  
NATIONAL GUARD ARMORY, 1225 BLUFF ROAD  
COLUMBIA 29201

*Pat Smith*  
*Let's put this on*  
*the agenda for*  
*next meeting.*

*Jcw*

*9-20-73*

*EXHIBIT III*

*OCT. 4, 1973*

AGSC-FM

13 September 1973

State Budget and Control Board  
Attn: Chairman  
P. O. Box 11333  
Columbia, South Carolina

Dear Sir:

In compliance with procedures for employment of Architects and professional Engineers you will find attached contract with Holladay, Coleman, Williams and Associates, a list of all firms considered, a certification of newspaper announcement and a list of Architects and Engineers for the last two years.

I believe that the firm recommended will serve requirements for the design and supervision of construction for the Intrusion Detection Systems.

Sincerely,

*Vernon E. Amick*

VERNON E. AMICK  
Captain, SCARNG  
Construction & Facilities Mgr.

Incls:

1. Cpy of contract
2. List of Architects Interested
3. List of Architects Used last  
Two years.
4. Certification of Newspaper  
Announcement

EXHIBIT IV  
OCT. 4, 1973



## Medical University of South Carolina

80 BARRE STREET / CHARLESTON, SOUTH CAROLINA 29401

October 1, 1973

Mr. P. C. Smith, State Auditor  
Post Office Box 11333  
Columbia, South Carolina 29211

Dear Mr. Smith:

In accordance with the procedures distributed by the Budget and Control Board on July 10, 1973, the Medical University of South Carolina herewith submits for approval three proposed contracts (Enclosure 1) for architectural-engineering services for projects included in the 1973 Capital Improvement Bond Act. The projects and the proposed architect-engineers are as follows:

### Projects

Institute for Human Development )  
Radiology Facilities )  
Clinical Laboratory Facilities )

Allied Health Science Building

Student and Continuing Education  
Center

### Architect-Engineers

Association of Perkins & Will  
and Lockwood Greene

Geiger, McElveen & Kennedy

LBC&W Associates

The Medical University formally advertised for architect-engineers on June 27 and 28, 1973, in the Columbia, Greenville and Charleston newspapers. Certified copies of the advertisements are available in our files. Data concerning the architect-engineers who responded to the advertisement were reviewed and summarized. This summary (Enclosure 2), together with all the material received, was made available to the Development Committee of the Board of Trustees (which had been instructed to conduct interviews and prepare recommendations to the full Board) at a meeting held August 1, 1973. During this meeting, based on a review of both the summary and the material submitted, the Committee selected four architect-engineers for interview for each project. The interviews were held on August 10, 1973. The following were the firms interviewed:



Mr. P. C. Smith  
Page 2  
October 1, 1973

Institute for Human Development, Radiology Facilities, and Clinical  
Laboratory Facilities

Perkins & Will  
Lockwood Greene  
Geiger, McElveen & Kennedy in association with Henningson,  
Durham & Richardson  
LBC&W Associates

Allied Health Science Building

LBC&W Associates  
Cummings & McCrady  
McMillan, Bunes, Townsend & Bowen  
Demetriois C. Liollo & Associates

Student and Continuing Education Center

LBC&W Associates  
Lucas & Stubbs  
Cummings & McCrady  
McMillan, Bunes, Townsend & Bowen

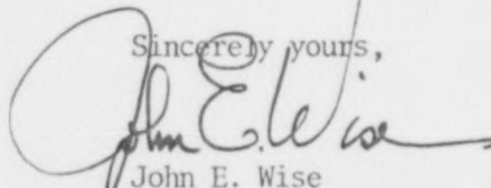
After private discussions among the committee members following the interviews and in a special meeting held September 16, 1973, it was decided that the first choices of architects for the projects were as indicated at the beginning of this letter. It was also decided that the Institute for Human Development, the Radiology Facilities and the Clinical Laboratory Facilities should be treated as one project, since the programming and design aspects of these facilities are so closely interwoven. While Perkins & Will and Lockwood Greene were originally considered separately, these two firms elected, subsequent to the interviews, to become associated and so informed the Board of Trustees prior to the September 16 meeting of the Development Committee.

The recommendations of the Development Committee were submitted to the Board of Trustees on September 17, 1973. The Board unanimously approved the recommendations.

The information concerning previous work performed for the Medical University by the proposed architect-engineers is shown in Enclosure 3.

It is requested that the Budget and Control Board approve the proposed contracts.

Sincerely yours,



John E. Wise  
Vice President

JW/bpw  
Enclosures

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## South Carolina Department of Mental Health

P.O. Box 485 / 2414 Bull Street / Columbia, South Carolina 29202 / (803) 256-9911

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

*EXHIBIT V*  
*OCT 4, 1973*

*Return  
- not for [unclear]  
- [unclear]*  
September 25, 1973

The Honorable P. C. Smith  
State Auditor  
State of South Carolina  
P.O. Box 11333  
Columbia, South Carolina 29211

Dear Mr. Smith:

Ms. Pamela Y. Drake of this Department will present a paper at the International Congress on Drug Education in Montreux, Switzerland, October 14-19, 1973. We propose to pay her travel from Columbia to New York and return, her registration fee for the conference, and per diem expenses for the six days of the conference and necessary travel days.

Since the foregoing represents official travel outside of the continental United States, I am requesting the approval of the State Budget and Control Board, in accord with your memorandum.

My best regards.

Sincerely yours,

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

WSH/jr

*Patience  
Hush and mity*

CLEMSON UNIVERSITY  
CLEMSON, SOUTH CAROLINA 29631

OFFICE OF THE PRESIDENT

September 24, 1973

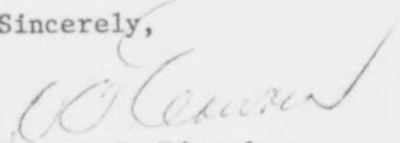
Mr. P. C. Smith  
Secretary  
State Budget and Control Board  
Post Office Box 11333  
Columbia, South Carolina 29211

Dear Mr. Smith:

Dr. S. C. Anand, Associate Professor of Civil Engineering, and Dr. Herbert W. Busching, Head of the Department of Civil Engineering, have requested permission to attend the Third International Symposium on Lower-Cost Housing Problems to be held May 27-30, 1974 in Montreal, Canada. These gentlemen have collaborated in preparing a paper for the Symposium. The total cost of the trip for two persons will be \$500.

We believe that the paper submitted by these gentlemen will be a significant contribution to the seminar and that their going will be of significant value both to Clemson University and to the State of South Carolina. We respectfully request approval of this trip to Canada by the State Budget and Control Board.

Sincerely,

  
Robert C. Edwards  
President

RCE:ak





Sept. 28, 1973

UNIVERSITY OF SOUTH CAROLINA

COLUMBIA, S. C. 29208

Office of the Treasurer

TO: William T. Putnam  
FROM: Joseph Jones JB  
SUBJECT: Foreign Travel Approval

Attached is a travel authorization request No. 02842  
dated Sept. 25, 1973 covering foreign travel to San Juan  
by Mr. E. Leon C. Leaphart

Will you please submit this request to the Budget and  
Control Board for approval.

Green Accounting Dept. Copy  
Yellow Department Approved Copy  
Pink Department File Copy

UNIVERSITY OF SOUTH CAROLINA  
TRAVEL AUTHORIZATION FORM

TA No. 02842

Date Sept. 25, 1973  
Mo. Day Yr.

SECTION I

Requested by Mrs. Eileen C. Leaphart  
Name of Traveler (if more than one person, see reverse side of pink copy for instructions) Dept. General Studies - Tech. Nsg.  
Name

For the purpose of Attending District IV Conference (Nurses Assoc. of American College of  
Obstetricians and Gynecologists) and being installed as Vice-Chairman S. C. NAACOG.

Duration of trip: From October 20, 1973 To: October 25, 1973  
Mo. Day Yr. Mo. Day Yr.

Destination of Trip San Juan, Puerto Rico

Does this authorization supersede a previously approved trip? No If so, give TA. No.

SECTION II

Method of Travel

Common Carrier

Bus ☐

Plane ☒

Railroad ☐

Other

Personal Vehicle ☐

University Vehicle ☐

Other - Explain

State of South Carolina regulations provide "that in traveling on business of the University, Faculty, and Staff are required to use the most economical mode of transportation". Please refer to the policies and procedures manual for the maximum travel expenses allowed.

Approval Subject To The Following

Full Reimbursement ☐

Transportation ☐

Subsistence only ☐

Other or %

SECTION III

Estimated Cost

Transportation (Do not include USC Vehicle)

\$100.00

Subsistence

126.00

\*Other Expenses

Estimated Total Cost \*

\$226.00

\*Explain This is 1/2 of total expense, other 1/2 to be paid by  
SECTION IV S. C. NAACOG.

Account(s) to be charged (see reverse side of pink copy for instructions)

Dept.	Fund	Class	Analytical	Amount
14020	A000	52024		\$226.00

SECTION V

Approved

Donna Moss  
Dept. Head

9/25/73

Date

Harry E. Varnum  
Dean, V.P. or Provost

9-27-73

Date

If trip plans are altered after submission of this form, the Treasurer's Office must be notified.

The Travel Expense Voucher for reimbursement should be submitted within seven (7) days after return to campus.

The University reserves the right not to reimburse expenditures without receipts. Be sure to obtain receipts whenever practical.

TREASURER'S OFFICE USE ONLY

	P	
Amount	or	Date Paid
	C	
Common Carrier \$	<input type="checkbox"/>	
Lodging, Meals or Other	<input type="checkbox"/>	
Total \$		



Sept. 28, 1973

UNIVERSITY OF SOUTH CAROLINA

COLUMBIA, S. C. 29208

Office of the Treasurer

TO: William T. Putnam  
FROM: Joseph Jones *BJ*  
SUBJECT: Foreign Travel Approval

Attached is a travel authorization request No. 39644  
dated 8-13-73 covering foreign travel to New Zealand  
by D. J. Colquhoun.

Will you please submit this request to the Budget and  
Control Board for approval.



Green Accounting Dept. Copy  
Yellow Department Approved Copy  
Pink Department File Copy

UNIVERSITY OF SOUTH CAROLINA  
TRAVEL AUTHORIZATION FORM

TA No. **Nº 39644**

Date 8 13 73  
Mo. Day Yr.

SECTION I

Requested by D. J. Colquhoun Dept. Geology  
Name of Traveler (if more than one person, see reverse side of pink copy for instructions) Name

For the purpose of to present paper at IX Inqua Congress

Duration of trip: From November 20 1973 To: December 20 1973  
Mo. Day Yr. Mo. Day Yr.

Destination of Trip New Zealand

Does this authorization supersede a previously approved trip? NO If so, give TA. No. \_\_\_\_\_

SECTION II

Method of Travel

Common Carrier

Bus ☐

Plane ☐

Railroad ☐

Other

Personal Vehicle ☐

University Vehicle ☐

Other - Explain \_\_\_\_\_

State of South Carolina regulations provide "that in traveling on business of the University, Faculty, and Staff are required to use the most economical mode of transportation". Please refer to the policies and procedures manual for the maximum travel expenses allowed.

Approval Subject To The Following

Full Reimbursement ☐

Transportation ☐

Subsistence only ☐

Other or % \_\_\_\_\_

SECTION III

Estimated Cost

Transportation (Do not include USC Vehicle) 1500.00

Subsistence 750.00

\*Other Expenses \_\_\_\_\_

Estimated Total Cost \$2250.00 \*

\*Explain \_\_\_\_\_

SECTION IV

Account(s) to be charged (see reverse side of pink copy for instructions)

Dept.	Fund	Class	Analytical	Amount
13040	A000	52024	<del>\$150</del>	300 <del>\$150</del>
13040	F119	52024	<del>\$750</del>	\$750

\*The remainder is to be assigned as per memo of August 8 to Dean Durig.

SECTION V

Approved \_\_\_\_\_

Dept. Head

J. R. Durig

Dean, V. P. or Provost

13/8/73

Date

8/15/73

Date

If trip plans are altered after submission of this form, the Treasurer's Office must be notified.

The Travel Expense Voucher for reimbursement should be submitted within seven (7) days after return to campus.

The University reserves the right not to reimburse expenditures without receipts. Be sure to obtain receipts whenever practical.

TREASURER'S OFFICE USE ONLY

Amount ☐ P or C Date Paid  
Common Carrier \$ ☐  
Lodging, Meals or Other ☐  
Total \$ \_\_\_\_\_



## intra-office memo

Date August 28, 1973

From: D. J. Colquhoun, Head Geology Department  
Dean James Durig

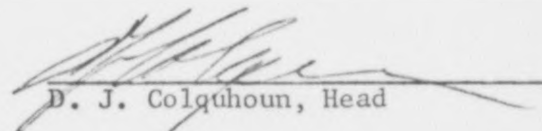
To: Treasurer's Office

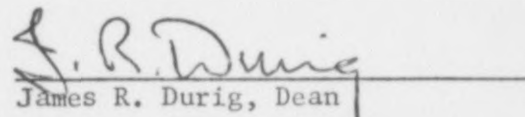
Subject: Traavel Authorization form No. 39644

This is to inform you that I would like to change the accounts to be charged portion of Travel Authorization Form No. 39644 to read as follows:

13040-A000-52024 -- \$300 (instead of \$150)  
13040-F119-52024 -- \$750

Thank you for your assistance in this matter.

  
D. J. Colquhoun, Head

  
James R. Durig, Dean

*Outman  
Feb 21/74*

CLEMSON UNIVERSITY  
CLEMSON, SOUTH CAROLINA 29631

OFFICE OF THE PRESIDENT

September 28, 1973

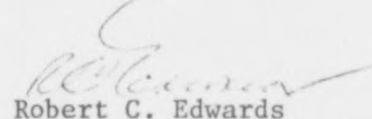
Mr. P. C. Smith  
Secretary  
State Budget and Control Board  
Post Office Box 11333  
Columbia, South Carolina 29211

Dear Mr. Smith:

Dr. John W. Huffman, Professor of Chemistry, has requested permission to present a paper at the Fifth Natural Products Symposium sponsored by the University of the West Indies, to be held January 6-12, 1974 in Kingston, Jamaica. The total cost of this trip will be \$375.

We believe that the paper submitted by Dr. Huffman will be a significant contribution to the Symposium and that his going will be of significant value, both to Clemson University and to the State of South Carolina. We respectfully request approval of this trip to Jamaica by the State Budget and Control Board.

Sincerely,

  
Robert C. Edwards  
President

RCE:ak



STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

EXHIBIT VI  
OCT 4, 1973

TO THE STATE BUDGET AND CONTROL  
BOARD OF SOUTH CAROLINA

P E T I T I O N

The Petition of the Board of Commissioners of Aiken County (the County Board), pursuant to Act No. 103 of the Acts of the General Assembly of the State of South Carolina for the year 1967, as amended, respectfully shows:

1. The County Board is the governing body of Aiken County as established under Article 4.1, Chapter 18, South Carolina Code of Laws, 1962, as amended, and is the "County Board" referred to in Act No. 103 of the South Carolina General Assembly enacted at its 1967 Session, as amended (the Act).

2. The Act authorizes and empowers the County Board if it shall comply with the provisions set forth in the Act, to acquire land, buildings, equipment and machinery and other improvements deemed necessary, suitable and useful by any manufacturing or processing enterprise; to lease the same; and to finance the acquisition of the same through the issuance of bonds payable from and secured by a pledge of the revenues to be derived from the leasing of such land, buildings, equipment and machinery and other improvements.

3. The County Board has agreed with Tilbury Associates, a joint venture formed under the laws of the State of New York (the Lessee), that the County Board will undertake to finance the acquisition and construction of new warehouse and distribution facilities to be located in Aiken County by the Lessee through the issuance of Industrial Revenue Bonds pursuant to the Act. In this connection the County Board has agreed to accept a conveyance of the 20 acre parcel of land on which

the facilities will be located (said land and the building constituting the said facilities being hereinafter referred to as the Project), and the County Board has agreed to issue Six Hundred Thousand Dollars (\$600,000) Aiken County First Mortgage Industrial Revenue Bonds, Series 1973 (Tilbury Associates, a joint venture - Lessee) pursuant to the Act in order to finance the acquisition and construction of the Project which, when completed, will constitute a new facility for the warehousing and distribution of fabrics to be used in the manufacturing of home furnishings and apparel.

4. The County Board is advised by the Lessee that the cost of acquiring the said land, including land improvements and the cost of constructing the said building, is approximately \$600,000; and that, therefore, in order to finance the acquisition and construction of the Project, including the costs and charges incident to the issuance and sale of the bonds hereinafter described, it will be necessary that the County Board issue Six Hundred Thousand Dollars (\$600,000) Aiken County First Mortgage Industrial Revenue Bonds, Series 1973 (Tilbury Associates, a joint venture - Lessee) (the Bonds).

5. When the Project is complete, it will employ approximately 15 persons and the construction of the Project will provide additional employment during the period of construction.

6. For the reasons above set forth and hereafter disclosed, the County Board has found:

(a) The proposed Project will subserve the purposes of the Act.

(b) By reason of undertaking the Project no pecuniary liability will result to the County nor will there be a charge against its general credit or taxing power.

(c) The proposed Lease between the County Board and the Lessee will unconditionally obligate the Lessee to pay rent in an amount adequate to provide for the principal and interest payments on the Bonds which mature and bear interest as follows:

3.

<u>December 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1974	\$ 15,000	5.00%
1975	20,000	5.15
1976	20,000	5.30
1977	20,000	5.40
1978	20,000	5.50
1979	25,000	5.60
1980	25,000	5.70
1981	25,000	5.80
1982	25,000	5.90
1983	30,000	6.00
1984	30,000	6.10
1985	30,000	6.20
1986	30,000	6.30
1987	35,000	6.40
1988	35,000	6.50
1989	40,000	6.50
1990	40,000	6.50
1991	40,000	6.50
1992	45,000	6.50
1993	50,000	6.50

(d) The Lessee proposes to obtain insurance from Commercial Loan Insurance Company insuring Lessee's obligation to pay rent under the Lease, and the Lessee's obligations under the said Lease, including the payment of all rentals and other sums to become due thereunder will be unconditionally guaranteed by Tilbury Fabrics, Inc. a New York corporation (the Guarantor).

(e) In view of the insurance to be obtained as aforesaid, it is unnecessary to establish reserve funds for the payment of such principal and interest (unless required by the purchaser or insurance company).

(f) The terms of the Lease will require the Lessee to carry proper insurance and to pay all costs of maintaining the Project in good repair.

7. Pursuant to Section 14 of the Act, the County Board sets forth the following information:

(a) The Project to be undertaken consists of land, buildings, other improvements which will be necessary for, and part of, facilities for the warehousing and distribution of fabrics to be used in the manufacture of home furnishings and apparel.



(b) The Project will provide considerable employment during the period of its construction and when completed will provide permanent employment for approximately 15 persons. It is, therefore, believed that the Project will have an extremely beneficial effect upon the economy of the County and areas adjacent thereto.

(c) The cost of the Project is approximately Six Hundred Thousand Dollars (\$600,000), including construction cost, cost of land, financing costs and all other expenses to be incurred in connection therewith.

8. The proposed Lease will provide, among other things, the following:

(a) To finance the cost of the acquisition and construction of the Project the County will issue \$600,000 of Aiken County First Mortgage Industrial Revenue Bonds, Series 1973 (Tilbury Associates, a joint venture - Lessee). All Bonds will be secured by a pledge of the rents to be paid by the Lessee and will be further secured by a Trust Indenture, as authorized by Section 5 of the Act, to a Bank yet to be named, as Trustee, and the obligations of the Lessee under the said Lease will be unconditionally guaranteed by the Guarantor and insured under an insurance policy to be issued by Commercial Loan Insurance Company.

(b) The proceeds derived from the sale of the Bonds will be deposited with the Trustee and will be withdrawn on requisition of the Lessee and the County and applied solely for the payment of costs incident to the acquisition and construction of the Project, and the issuance of the Bonds.

(c) The Lease will contain a specific provision by which the Lessee will unconditionally agree to make payments to Aiken County, to any School District in Aiken County, and to all other political units in which the Project is

situated, in lieu of taxes, in such amounts as would result from taxes levied on the Project by Aiken County, by any such School District, and by said political units if the Project were owned by the Lessee, but with appropriate reductions similar to the tax reductions, if any, which would be afforded the Lessee were it the owner of the Project.

(d) The Lease will contain no provision imposing any pecuniary liability upon the County or which would create a charge upon its general credit or taxing power.

(e) The Guarantor will enter into an agreement (the Lease Guaranty Agreement) with the County which will be attached to the said Lease and pursuant to which the Guarantor will unconditionally guarantee the performance of all of the obligations of the Lessee under the said Lease, including the payment of all rentals and other amounts to become due.

9. The Trust Indenture will be in conventional form and constitute a forecloseable mortgage upon the Project. Included in the granting clause of the mortgage will be:

(a) All real property and interests therein, acquired or to be acquired for the Project.

(b) The right, title and interest of the County in the Lease.

(c) The right, title and interest of the County in the Lease Guaranty Agreement.

(d) All rentals and revenues derived by the County under the Lease and Lease Guaranty Agreement, except those payments to be made in lieu of taxes or by way of indemnification, trustees fees or attorneys fees.

The Indenture makes provision for the issuance of Six Hundred Thousand Dollars (\$600,000) of Bonds to be secured thereunder. It provides for the payment and redemption of the Bonds, the establishment of a Bond Fund into which

the proceeds of the rents payable by the Lessee are placed, and the use of said fund for the payment of the Bonds. It imposes upon the Lessee the obligation to pay, in addition to the moneys required for the payment of the principal and interest of the Bonds, all other costs and expenses resulting from the execution and delivery of the Indenture and the issuance of the Bonds pursuant thereto.

10. The proposed Lease and Lease Guaranty Agreement and the proposed Trust Indenture will be in the form heretofore used in the issuance of Industrial Revenue Bonds pursuant to the Act.

Upon the basis of the foregoing, the County Board respectfully prays:

That the State Budget and Control Board accept the filing of the Petition presented herewith and that it do, thereafter, and as soon as practicable, make its independent investigation of the Project and the terms and provisions of the Lease, the Lease Guaranty Agreement and the Trust Indenture, as it deems advisable, and that thereafter, the said State Board make a finding that the proposed Project will promote the purpose of the Act and that it is reasonably anticipated to effect such result, and on the basis of such finding, that it does approve the Project, including changes in any details of the said financing as finally consummated which do not materially affect the said undertaking, and give published notice of its approval in the manner set forth in Section 14 of the Act.

Respectfully submitted,

AIKEN COUNTY, SOUTH CAROLINA

(SEAL)

By Harold K. Ray  
Chairman, Board of Commissioners of  
Aiken County

Attest:

L. C. Lilly  
Clerk of the Board of  
Commissioners of Aiken County

OCTOBER 2, 1973





# The Robinson-Humphrey Company, Inc.

*Member New York, American & Midwest Stock Exchanges*

Suite 201  
1316 Main Street  
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE  
(803) 779-4520

October 3, 1973

Honorable P. C. Smith  
State Auditor  
200 Wade Hampton Office Building  
Columbia, S. C. 29201

Re: \$600,000 Aiken County, S. C. First Mortgage Industrial  
Revenue Bonds, Series 1973 (Tilbury Associates,  
A Joint Venture - Lessee), to be dated June 1,  
1973 ("The Bonds")

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Dear Mr. Smith:

I am sorry that execution of the enclosed Petition prevented my seeing you this morning prior to the commencement of your Budget hearings. I enjoyed talking with you yesterday and appreciated your suggestions and advice.

At the authorization of Honorable Harold Graybeal, Chairman, Board of Commissioners of Aiken County, I am pleased to deliver the County's Petition to the State Budget and Control Board for approval of the County's proposed issuance of the above-referenced Bonds. Should the Board act favorably upon the Petition, I would appreciate your notifying Thomas A. Hutcheson, Esq. of the Sinkler firm and William G. Lynn, Jr., Esq., Counsel to the County. Mr. Lynn's telephone number is 803/648-4213.

I am also enclosing a copy of the Preliminary Offering Memorandum prepared by our firm in connection with this financing. As I pointed out in our conversation yesterday, these bonds are insured by a Lease Guarantee Insurance Policy to be issued by Commercial Loan Insurance Corporation, a wholly owned subsidiary of MGIC Investment Corp., Milwaukee, Wisconsin. May I respectfully point out that this additional security feature is identical to that of our recent industrial

Honorable P. C. Smith

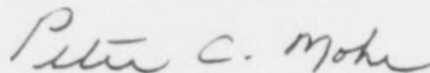
Page Two

October 3, 1973

revenue bond financing in Edgefield County for Consolidated Yarn Corp., which Petition by Edgefield County was approved by the Board on August 8, 1973. There are no Second Mortgage or subordinated bonds as a part of this proposed Aiken County financing for the Tilbury project.

If you have any questions or desire additional information, please do not hesitate to contact me. We are anxious to close and deliver this issue, so prompt consideration by the Board would be greatly appreciated. Thanking you for your kind attention, and with continued best wishes to you and the members of the Board, I remain

Very respectfully,



PETER C. MOHR  
Vice President & Manager  
Industrial Development Finance

PCM/jp

Enc.

Pat,

I talked to Mr. Mohr about  
this bond issue. The petition is  
in my file but I thought you  
would want to see the financial  
statements. (See the last pages of  
the Robinson - Humphrey attachment.)

W.T.P



The Robinson-Humphrey Company, Inc.



MEMBER NEW YORK AMERICAN  
AND MIDWEST STOCK EXCHANGES  
TWO PEACHTREE STREET N.W.  
ATLANTA GEORGIA 30303  
TELEPHONE (404) 658-1100

## Municipal Bond Department

July 30, 1973

### NEW ISSUE

In the opinion of Bond Counsel for the County, based upon existing statutes, court decisions and current rulings and interpretations of law by the United States Internal Revenue Service, interest on the Bonds is exempt from all present Federal income tax; and, under existing statutes, the Bonds and the income therefrom are exempt from all taxation by the State of South Carolina. The aforesaid interest exemption from all present Federal income tax shall not apply to Bonds owned by any person who may be deemed either a "substantial user" of the Project or a "related person" within the meaning of Section 103 (c) (7) of the United States Internal Revenue Code of 1954, as amended.

\$600,000  
AIKEN COUNTY, SOUTH CAROLINA  
FIRST MORTGAGE INDUSTRIAL REVENUE BONDS  
(TILBURY ASSOCIATES, LESSEE - TILBURY FABRICS, INC., GUARANTOR)

Dated: June 1, 1973

Due: Serially, December 1, 1974-1993,  
inclusive, as shown below.

Coupon Bonds ("the Bonds") in \$5,000 denomination each, registrable as to principal only or as to both principal and interest. Principal and semi-annual interest (June 1 and December 1, first coupon payable December 1, 1973) payable at the principal office of Farmers & Merchants Bank, in the City of Aiken, S. C., the Trustee and Paying Agent for the Bonds. The Bonds are subject to redemption prior to their stated maturity dates as described in the "Prior Redemption" section of this Offering Memorandum.

### OFFERING SCHEDULE

(Price: 100.00% plus accrued interest from June 1, 1973 to delivery)

AMOUNT	RATE	DUE	YIELD	AMOUNT	RATE	DUE	YIELD
\$15,000	5.00%	1974	5.00%	\$30,000	6.10%	1984	6.10%
20,000	5.15	1975	5.15	30,000	6.20	1985	6.20
20,000	5.30	1976	5.30	30,000	6.30	1986	6.30
20,000	5.40	1977	5.40	35,000	6.40	1987	6.40
20,000	5.50	1978	5.50	35,000	6.50	1988	6.50
25,000	5.60	1979	5.60	40,000	6.50	1989	6.50
25,000	5.70	1980	5.70	40,000	6.50	1990	6.50
25,000	5.80	1981	5.80	40,000	6.50	1991	6.50
25,000	5.90	1982	5.90	45,000	6.50	1992	6.50
30,000	6.00	1983	6.00	50,000	6.50	1993	6.50

**LEGALITY:** The Bonds are offered at the above initial offering prices when, as and if issued by the County and received by us, subject to prior sale and certain other conditions, which shall include receipt of the unqualified approving opinion of Sinkler Gibbs Simons & Guerard, P. A., Bond Counsel, Charleston, South Carolina.

**ISSUANCE AUTHORITY:** The Bonds are being issued by the Board of Commissioners of Aiken County ("the County") under authority granted to all counties in South Carolina by Act No. 103 of the General Assembly of the State of South Carolina of 1967, as amended, and pursuant to the provisions of a Trust Indenture ("the Indenture") between the County and Farmers & Merchants Bank, as Trustee. Issuance of the Bonds by the County requires the approval of the State of South Carolina Budget and Control Board ("the Board"). The



County will petition the Board for such approval. It is anticipated that the Board will consider the County's petition at its September 1973 meeting, with delivery of the Bonds to be accomplished upon the expiration of a 20-day period following publication of legal notice of the Board's approval of the County's petition.

**SECURITY:** Except to the extent paid (i) from monies attributable to Bond proceeds, (ii) income from temporary investments, (iii) proceeds received by the County from insurance or condemnation awards and/or (iv) monies paid to the County under a Lease Guarantee Insurance Policy (as described in the "Additional Security" section of this Offering Memorandum), the Bonds are payable from and secured by (i) a first and irrevocable pledge of the rental payments and any other revenues to be received by the County from its net leasing of the Project to TILBURY ASSOCIATES ("Associates"), a joint venture organized under the laws of the State of New York, or (ii) proceeds received by the County from a sale of the Project under certain conditions as set forth in the Lease Agreement ("the Lease") between the County and Associates and the Indenture between the County and Farmers & Merchants Bank, as Trustee. Associates will sublease the Project to TILBURY FABRICS, INC., ("Tilbury"), New York, New York. Associates' Lease with the County and Tilbury's Sublease Agreement with Associates will be dated June 1, 1973 and will expire December 1, 1993. All obligations and performances of Associates under the Lease will be absolutely and unconditionally guaranteed by Tilbury. Pursuant to provisions of the Indenture, the County will convey to the Trustee a First Mortgage upon the real property to be acquired and the improvements to be constructed thereon (collectively referred to herein as "the Project").

**ADDITIONAL SECURITY:** As additional security for the Bonds and for the benefit of the holders thereof, COMMERCIAL LOAN INSURANCE CORPORATION ("CLIC"), a wholly-owned subsidiary of MGIC INVESTMENT CORPORATION ("MGIC"), Milwaukee, Wisconsin, will issue to Farmers & Merchants Bank, as Trustee for Aiken County under Trust Indenture dated June 1, 1973, a Lease Guarantee Insurance Policy ("the Policy") fully insuring total debt service requirements (principal and interest) payable during the life of the Bonds. Deductible from any claim payable by CLIC under the Policy is an amount equal to the first 90 days rent due following any default by Associates and/or Tilbury in the payment of the stipulated rentals. The maximum of any such deductible amount during amortization of the Bonds is \$14,155.00. On or prior to June 1, 1974, Tilbury will have deposited \$14,155.00 into a Lease Guarantee Insurance Claim Account ("the Claim Account") to be held and administered by the Trustee. Monies in the Claim Account may be used by the Trustee only to pay all or any portion of amounts deductible from any claim payable by CLIC under the Policy.

At closing and delivery of the Bonds, the Policy's one-time premium will be paid in full to CLIC by the Trustee from Bond proceeds. The Policy will also insure the County for payment of any expenses incurred by the Trustee in (i) re-renting the Project, (ii) selling the Project and/or (iii) restoring the Project to a rentable or saleable condition, in the event that Associates and/or Tilbury should abandon, or be evicted from, the Project.

Eighty per cent (80%) of all risks insured by CLIC under the Policy will be re-insured with American Re-Insurance Company ("American Re-Insurance") New York, New York. As at December 31, 1972, American Re-Insurance and CLIC reflected Stockholders' Equity of \$137,568,049 and \$17,543,000, respectively. While not legally required to assume the obligations of any of its subsidiaries, MGIC would, in the opinion of Mark B. Pollack, Esq., CLIC's Vice President & Secretary, probably take such supportive action in order to protect the continuation of operations of its other subsidiaries in those states in which CLIC was licensed. As at December 31, 1972, MGIC's Stockholders' Equity was \$229,130,492. 1972 Annual Reports for American Re-Insurance and MGIC are available upon request.

**PRIOR REDEMPTION:** The Bonds will be subject to redemption prior to their stated maturity dates under General, Calamitous and Default conditions, each as summarized below:

#### General

Upon delivery by Associates and/or Tilbury of a written request to the County, those Bonds maturing December 1, 1984 and thereafter are subject to redemption either as a whole or in part (but if in part, then in inverse numerical order) on December 1, 1983 and any interest payment date thereafter at the following redemption prices, plus accrued interest to date of redemption:

<u>Redemption Date</u> <u>(all dates inclusive)</u>	<u>Redemption Price</u> <u>(expressed as a percentage of 100%)</u>
December 1, 1983-December 1, 1988	104.00%
June 1 and December 1, 1989	103.50
June 1 and December 1, 1990	103.00
June 1 and December 1, 1991	102.00
June 1 and December 1, 1992	101.00
thereafter at	100.00

#### Calamitous Events/Extraordinary Circumstances

Upon the occurrence of certain calamitous events or the existence of extraordinary circumstances such as (i) total destruction of, or irreparable damage to, the Project, (ii) taking of the Project (or a substantial portion thereof) by condemnation or right of eminent domain or (iii) any voiding or unenforceability of the Lease, the Bonds are subject to redemption as a whole at the following redemption prices, plus accrued interest to date of redemption:

<u>Redemption Date</u> <u>(all dates inclusive)</u>	<u>Redemption Price</u> <u>(expressed as a percentage of 100%)</u>
June 1, 1973-May 31, 1975	103.00%
June 1, 1975-May 31, 1977	102.50
June 1, 1977-May 31, 1979	102.00
June 1, 1979-May 31, 1981	101.50
June 1, 1981-May 31, 1982	101.00
thereafter at	100.00

#### Default On Rental Payments

In the event that Associates and/or Tilbury should fail to make the rental payments stipulated in the Lease, CLIC shall have the exclusive option to immediately cause the Trustee to evict the Lessee, and then to direct the Trustee to either re-rent or sell the Project. Such direction to the Trustee may include a sale of the Project to CLIC or any other subsidiary of MGIC.

Any proceeds received by the Trustee from a re-renting of the Project in excess of the amounts required to pay the semi-annual interest on and maturing principal of the Bonds must be used by the Trustee to first reimburse CLIC for any claims paid under the Policy. Upon such reimbursement in full to CLIC, any excess of re-rental payments shall be deposited by the Trustee into a Rental Payment Reserve Account ("the Reserve Account") to be held and administered by the Trustee. Monies in the Reserve Account may be used by the Trustee only to meet any future insufficiencies in rental payments. No such re-rental of the Project shall release CLIC from its obligations under the Policy or diminish any claim thereunder, except to the extent of income received by the Trustee from any such re-renting of the Project.

Proceeds received by the Trustee from a sale of the Project (other than to CLIC or another subsidiary of MGIC) must be first applied to a redemption of the Bonds either as a whole or in part (but if in part, then in inverse order). If sale proceeds are sufficient to redeem all outstanding Bonds at a price equal to the face value thereof plus accrued interest to redemption date, the Trustee will then apply any sale proceeds remaining to reimburse CLIC for any claims paid under the Policy. Upon such reimbursement in full to CLIC, and to the extent available from any sale proceeds then remaining, the Trustee will next pay to Bondholders a redemption premium not to exceed 5% (\$50.00 per \$1,000 principal). After accomplishing (i) any reimbursement due CLIC and (ii) the payment of redemption premiums to Bondholders, the Trustee will remit any sale proceeds remaining to the original Lessee, its successors or assignees.

In the event CLIC should elect to exercise its option to direct a sale of the Project to itself or to another MGIC subsidiary, CLIC must first provide the Trustee with monies sufficient to redeem all outstanding Bonds at a price equal to the face value thereof plus accrued interest to redemption date. The Trustee, to the best of its ability, will compile and retain a list of Bondholders by name, address and principal amount & maturity of Bonds so redeemed. At such time as CLIC (or the MGIC subsidiary owning the Project) shall sell the Project, a certified copy of the sales contract must be delivered



to the County, the Trustee and the original purchasers of the Bonds. After first reimbursing CLIC in full for any claims paid under the Policy, CLIC (or the MGIC subsidiary selling the Project) must then remit any sale proceeds remaining to the Trustee. To the extent available from the receipt of such sale proceeds, the Trustee will then pay to Bondholders a redemption premium not to exceed 5% (\$50.00 per \$1,000 principal). After accomplishing the payment of redemption premiums to Bondholders, the Trustee will remit any sale proceeds remaining to the original Lessee, its successors or assignees.

USE OF PROCEEDS: The County will use proceeds from the sale of the Bonds (i) to acquire a 20-acre tract in the City of Aiken ("the City") Airport Industrial Park; (ii) to construct thereon a 50,400 sq. ft. facility to be occupied and used by Tilbury in the warehousing and distribution of household and other fabrics; and (iii) to pay the fiscal, legal and printing expenses of issuing the Bonds, including underwriting discount, the CLIC Lease Guarantee Insurance Policy premium and a partial capitalization of first interest due December 1, 1973. After payment of these expenses, it is estimated that \$506,886.26 of Bond proceeds will be available for acquisition of the Project site (\$50,000) and construction of the Project (\$456,886.26). Storage racks, bins, material handling equipment and office area furniture & fixtures will be purchased and installed by Tilbury either from its own funds or through other financing sources.

The building will be steel constructed on 5" concrete slab, with "tilt-up" reinforced concrete walls and metal deck, insulated roof. The 49,400 sq. ft. warehousing and distribution area will be fully sprinklered, electrically heated and cooled by air blowers. The 1,000 sq. ft. office area will be air conditioned. The building will have five loading docks (one with load leveler) and a paved parking area. Full utilities services and paved access roads have been provided to the Airport Industrial Park by the City. The Airport Industrial Park is located at the northern corporate limits of the City and is bounded by the Aiken Municipal Airport and Interstate Highway 20.

Site preparation will commence not later than September 1, 1973, with start of construction scheduled during October or November. Tilbury expects that the Project will be completed and ready for occupancy by March 1, 1974. Tilbury will initially employ 15 persons at the Project.

THE COUNTY: Aiken County ("the County") is located in the central section of the State on the South Carolina-Georgia border. The County's 1970 population was 91,023, a 71% increase from the 1950 census figure of 53,137. This dramatic growth reflects the industrialization of the Greater Augusta, Georgia Area, of which the County is considered a part. The Two-County SMRA (Richmond County, Georgia and the County) 1970 population was 253,460, up 17% from 216,639 in 1960.

Aiken (1970 population: 13,436) is the County Seat and the principal municipality in the County. The City's early economic history was that of an agricultural trading center and Winter resort area. The proximity to Augusta and excellent transportation resources (Southern Railway System, Interstate Highway 20) have contributed significantly to the economic growth and diversification of both the County and the City. Principal industrial employers in the County-City area include duPont, American Cyanamid, Owens-Corning Fiberglass, Savannah River Plant (Atomic Energy Commission), Graniteville and United Merchants and Manufacturing. Amoco Chemicals (Standard Oil Indiana) and Thermo-Disc (Emerson Electric Company) have recently announced new plants to be located at Aiken.

#### TILBURY FABRICS, INC.

TILBURY FABRICS, INC. ("Tilbury" or "the Company"), a New York corporation, was founded in 1945 by Mr. Jack Weisberg, 69, and Mr. Jerome Rachlin, 68. Messrs. Weisberg and Rachlin are President and Secretary-Treasurer of the Company, respectively, each owning 50% of the outstanding stock. The business continues to be family-oriented and managed, with Alan Weisberg, 32, and Barton Rachlin, 35, the Company's administrative and operating Vice-Presidents, respectively.

Tilbury was originally formed as a converter of slipcover and drapery fabrics in both printed and woven styles. Through its Grosby Products Division, the Company has expanded into the manufacturing of bedspreads and draperies. Tilbury fabrics are sold nationwide to jobbers, manufacturers, chain stores

and retail specialty shops. Approximately 60% of fabric sales are made to major jobbers, 20% to manufacturers (principally of furniture, draperies and bedspreads) and the remaining 20% to retail specialty stores, chains and miscellaneous buyers. Tilbury purchases fabrics in the greige, contracting its dyeing, printing and finishing. One of the major factors influencing the Company's decision to locate the Project at Aiken was the proximity Aiken will afford Tilbury to a number of its important contractors. Sales volume of the Grosby Products Division is approximately 45% to the jobbing trade, with the 55% balance divided between major department stores (Bloomingdale's, Maas Bros., Belk's), chains (J. C. Penney, W. T. Grant) and retail specialty stores. Of 1972 sales of \$7,491,000, approximately 38% was attributable to the Grosby Products Division.

Tilbury presently operates a 40,000 sq. ft. bedspread and drapery plant in New York City. A principal drapery contractor occupies a 20,000 sq. ft. facility, also in New York City. Fabrics are warehoused on a public basis at eight separate locations. The Company's studies indicate that by consolidating its fabric warehousing and distribution, Tilbury can achieve significant operating cost reductions, while enabling the Company to more efficiently and competitively serve its customers. The Project will have the capacity to accomodate Tilbury's entire fabric inventory, as well as finished products (bedspreads and draperies) from Grosby.

The Company's corporate and administrative offices are located at 261 Fifth Avenue, New York, New York. Following start-up of the Project and an operational evaluation, Tilbury has indicated that it may consider the establishment of a bedspread and drapery manufacturing facility adjacent to the Project and the relocation of a majority of its administrative functions to Aiken. The Project site of 20 acres provides Tilbury with sufficient real estate to accomplish such an expansion of its Aiken facilities.



EMANUEL POKART  
BERNARD PLISKIN  
HAROLD KESTENBAUM  
BARRY LEIF  
SURTON LASKIN  
HARVIN WEISSMAN

RASHBA & POKART  
CERTIFIED PUBLIC ACCOUNTANTS  
SUITE 6216  
EMPIRE STATE BUILDING  
NEW YORK, N. Y. 10001  
565-0355

AARON RASHBA (1933-1968)  
THOMAS HUNT (1951-1971)

March 7, 1973

Tilbury Fabrics, Inc.  
261 Fifth Avenue  
New York, New York 10016

Gentlemen:

We have examined the balance sheet of Tilbury Fabrics, Inc. as at December 31, 1972. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying financial statements present fairly the financial position of Tilbury Fabrics, Inc. at December 31, 1972, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Respectfully submitted,

*Rashba & Pokart*

Certified Public Accountants

March 7, 1973

Tilbury Fabrics, Inc.  
261 Fifth Avenue  
New York, New York

Gentlemen:

We have examined the attached condensed income statements of Tilbury Fabrics, Inc. for the five years ended December 31, 1972. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying condensed income statements for the five years ended December 31, 1972 present fairly the results of operations of Tilbury Fabrics, Inc., in conformity with generally accepted accounting principles applied on a consistent basis.

Respectfully submitted,

*Rashba & Pokart*

Certified Public Accountants

BALANCE SHEETDECEMBER 31, 1972A S S E T S

## Current Assets:

Cash	\$ 16,527.
Due from Factor	1,589,487.
Accounts receivable, net	67,992.
Merchandise inventory (Note 1)	1,774,773.
Prepaid expenses	<u>72,039.</u>

## Total Current Assets

\$3,520,818.

## Fixed Assets, Net

75,976.

## Other Assets:

Cash surrender value, officers' life insurance	\$421,078.	
Less: Loans payable to insurance companies (Note 2)	<u>398,341.</u>	22,737.
Deposits, etc.		<u>9,568.</u>

## Total Other Assets

32,305.

## TOTAL ASSETS

\$3,629,099.LIABILITIES AND SHAREHOLDERS' EQUITY

## Current Liabilities:

Accounts payable	\$ 638,501.
Notes payable - Bankers Trust Co. (Note 3)	1,060,000.
Due to Tiltex Corp.	118,164.
Accrued expenses and taxes	<u>358,897.</u>

## Total Current Liabilities

\$2,175,562.

## Long-Term Debt:

Notes payable - Bankers Trust Co. (Note 3)

240,000.

## Total Liabilities

\$2,415,562.

## Contingent Liabilities (Note 4)

## Shareholders' Equity: (Note 5)

Common stock - no par	\$146,920.	
Less: Stock redeemed during the year- stated value	<u>48,973.</u>	97,947.
Preferred stock		700,000.
Donated surplus		214,846.
Retained earnings		<u>200,744.</u>

## Total Shareholders' Equity

1,213,537.

## TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY

\$3,629,099.

Subject to comments in the attached letter of transmittal and  
notes to financial statements.

TILBURY FABRICS, INC.NOTES TO FINANCIAL STATEMENTSDECEMBER 31, 1972Note 1 - Merchandise Inventory

We were present at your premises when the physical inventory was taken. Those holding your goods at inventory date confirmed their holdings directly to us. The inventory was valued at the lower of cost or market.

Note 2 - Cash Surrender Value, Officers' Life Insurance

The corporation is the beneficiary of insurance policies on the lives of its officers in the aggregate amount of \$1,078,000. at statement date.

Note 3 - Notes Payable - Bankers Trust Co.

The company is liable on short term obligations totalling \$1,000,000. In addition, the company has entered into a term loan agreement for \$300,000., of which \$60,000. is due March 1, 1973, and the balance is due in four equal annual instalments, payable on March 1, of succeeding years. The interest on the term loan is payable monthly.

	<u>Due Within One Year</u>	<u>Due After One Year</u>	<u>Total</u>
Short Term Notes	\$1,000,000.	\$ -	\$1,000,000.
Long-Term Notes	<u>60,000.</u>	<u>240,000.</u>	<u>300,000.</u>
Total	<u>\$1,060,000.</u>	<u>\$240,000.</u>	<u>\$1,300,000.</u>

Note 4 - Contingent Liabilities

A. The liability for additional income taxes for prior years is subject to final determination by the taxing authorities.

B. The corporation is obligated under the following lease agreements.

<u>Premises</u>	<u>Expiration Date</u>	<u>Average Annual Rental</u>
261 Fifth Avenue, New York, N.Y.	1/31/78	\$ 32,000.
3380 Broadway, New York, N.Y.	11/30/74	\$ 50,000.
Merchandise Mart Plaza - Chicago, Ill.	12/31/77	\$ 5,500.

Note 5 - Shareholders' Equity

During 1972 the corporation amended its certificate of incorporation. New preferred stock, non participating and non-cumulative of \$700,000. was issued to existing shareholders.



TILBURY FABRICS, INC.  
CONDENSED INCOME STATEMENTS

	Year Ended December 31.				
	<u>1972</u>	<u>1971</u>	<u>1970</u>	<u>1969</u>	<u>1968</u>
Net Sales	\$7,491,008.	\$6,579,485.	\$5,666,248.	\$5,474,406.	\$5,048,997.
Cost of Goods Sold	<u>5,415,818.</u>	<u>4,877,592.</u>	<u>4,200,180.</u>	<u>3,985,218.</u>	<u>3,759,959.</u>
Gross Profit	2,075,190.	1,701,893.	1,466,068.	1,489,188.	1,289,038.
Operating Expenses	<u>1,702,195.</u>	<u>1,545,637.</u>	<u>1,365,328.</u>	<u>1,314,320.</u>	<u>1,271,540.</u>
Income, before income taxes	372,995.	156,256.	100,740.	174,868.	17,498.
Provision for federal, state and local income taxes	<u>193,000.</u>	<u>75,290.</u>	<u>49,828.</u>	<u>89,700.</u>	<u>6,973.</u>
Net Income	<u>\$ 179,995.</u>	<u>\$ 80,966.</u>	<u>\$ 50,912.</u>	<u>\$ 85,168.</u>	<u>\$ 10,525.</u>

Subject to comments in the attached letter of transmittal.

SINKLER GIBBS SIMONS & GUÉRARD  
ATTORNEYS & COUNSELLORS AT LAW  
PROFESSIONAL ASSOCIATION

TELEPHONE 722-3366  
AREA CODE 803

HUGER SINKLER  
CHARLES H. GIBBS  
ALBERT SIMONS, JR.  
THEODORE B. GUÉRARD  
G. DANA SINKLER  
THOMAS A. HUTCHESON  
ROBERT H. HOOD  
CHARLES F. AILSTOCK  
M. WILLIAM YOUNGBLOOD, JR.  
JOHN H. WARREN, III

2 PRIOLEAU STREET

CHARLESTON, S. C. 29402

POST OFFICE BOX 340

September 26, 1973

William T. Lynn, Jr., Esq.  
County Attorney  
Post Office Box 517  
Aiken, South Carolina 29801

Dear Bill:

Re: \$600,000 Aiken County, South Carolina, First  
Mortgage Industrial Revenue Bonds, Series  
1973 (Tilbury Associates, a joint venture -  
Lessee)

Enclosed you will find the original and 10 copies  
of a Resolution to be considered by the Board of Commissioners  
of Aiken County approving the project to be financed out of the  
proceeds of the captioned bond issue. If this Resolution appears  
to be in order, will you please present it to the County Board  
and when it has been adopted, return 10 certified copies to us.

We also enclose (in a blue back) the original Petition  
which should be executed as indicated by the Chairman and Clerk  
of the County Board and forwarded directly to Pat Smith at the  
State Budget and Control Board. The State Budget and Control  
Board is scheduled to meet on Tuesday, October 2nd and hopefully  
they will consider this matter at that time. Therefore, the  
Petition should reach Pat Smith's office as soon as possible.

Very truly yours,

*Deacy Furman*

TBG:mbd  
Enclosures

cc: (with enclosure)  
Peter C. Mohr, Esq.  
The Robinson-Humphrey Company, Inc.  
Two Peachtree Street, N. W.  
Atlanta, Georgia 30303

Edward S. Croft, Jr., Esq.  
Vice Chairman  
The Robinson-Humphrey Company, Inc.  
Two Peachtree Street, N. W.  
Atlanta, Georgia 30303

1876

SINKLER GIBBS SIMONS & GUERARD, P. A.

William T. Lynn, Jr., Esq.  
Page 2  
September 26, 1973

cc: (with enclosure)  
Alan Weisberg, Esq.  
Vice President  
Tilbury Fabrics, Inc.  
261 Fifth Avenue  
New York, New York 10016

Philip Smith, Esq.  
Smith, Getland & Parish  
635 Madison Avenue  
New York, New York 10022

Honorable P. C. Smith  
State Auditor  
Post Office Box 11333  
Columbia, South Carolina 29211



A RESOLUTION  
APPROVING THE FINANCING OF THE ACQUISITION AND CONSTRUCTION  
OF CERTAIN WAREHOUSING AND DISTRIBUTION FACILITIES IN AIKEN  
COUNTY (TO BE LEASED TO TILBURY ASSOCIATES, A JOINT VENTURE,) -  
THROUGH THE ISSUANCE OF SIX HUNDRED THOUSAND DOLLARS (\$600,000)  
OF AIKEN COUNTY, SOUTH CAROLINA, FIRST MORTGAGE INDUSTRIAL  
REVENUE BONDS, SERIES 1973 (TILBURY ASSOCIATES, A JOINT VENTURE -  
LESSEE); AND AUTHORIZING THE PETITION TO THE STATE BUDGET  
AND CONTROL BOARD OF SOUTH CAROLINA FOR ITS APPROVAL OF SUCH  
UNDERTAKING PURSUANT TO ACT NO. 103 OF THE 1967 ACTS OF THE  
SOUTH CAROLINA GENERAL ASSEMBLY, AS AMENDED.

As an incident to the adoption of this Resolution  
the Board of Commissioners of Aiken County (the County Board)  
has made the following findings:

1. Tilbury Associates, a joint venture under the laws  
of the State of New York (the Lessee), has proposed that  
the County Board undertake to finance the acquisition and  
construction of new warehousing and distribution facilities  
(to be leased to the Lessee and used in the manufacturing of  
home furnishings and apparel) at an estimated cost of \$600,000,  
including the acquisition of a 20 acre plant site located in  
Aiken County, through the issuance of Industrial Revenue  
Bonds pursuant to the authorization of Act No. 103 of the  
1967 Acts of the South Carolina General Assembly, as amended  
(the Act). The Lessee has advised the County Board that  
its proposed construction program is dependent upon the assistance  
which the County might render through the sale of \$600,000  
Industrial Revenue Bonds pursuant to the Act. The County  
Board has agreed so to finance the acquisition and construction  
of the said facilities (the said 20 acre tract of land and  
the building constituting the said facilities being hereinafter  
referred to as the Project), and adopts this Resolution to  
evidence its approval of the issuance of Bonds as aforesaid  
and to authorize a petition to the State Budget and Control  
Board (the State Board) setting forth the facts required  
by Section 14 of the Act.

2. The County Board has determined that the Project  
will subserve the purposes of the Act and neither the Project

nor the Bonds will give rise to any pecuniary liability of Aiken County or a charge against its general credit or taxing power.

3. The amount necessary to finance the Project is Six Hundred Thousand Dollars (\$600,000).

4. The Lessee has submitted to the County Board an outline of the proposed Lease, under which the Lessee will agree to pay as rent the amount necessary to provide the annual payments of principal and interest on the Bonds, which will mature and bear interest as more fully set forth in paragraph 6(c) of the attached Petition.

5. The Lease will obligate the Lessee unconditionally to pay the amount necessary to provide the annual payments of principal and interest, and premium, if any, to become due on the Bonds and to pay other costs in connection therewith and contains an appropriate provision requiring the Lessee to pay in lieu of taxes, such amounts as would otherwise be paid if the Lessee owned the Project.

6. All of the Lessee's obligations under the said Lease, including the payment of all rentals and other sums to become due thereunder, will be unconditionally guaranteed by Tilbury Fabrics, Inc., a New York corporation (the Guarantor).

7. The Lessee will obtain insurance covering its obligations under the Lease and, therefore, it is unnecessary to establish reserve funds for the payment of principal and interest.

8. The Lessee has advised the County Board that the Lessee has arranged for the sale of the Bonds to The Robinson-Humphrey Company, Inc.

9. The Bonds will be issued as tax exempt bonds pursuant to the provisions of Section 103(c)(6)(A) of the Internal Revenue Code of 1954, as amended.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS  
OF AIKEN COUNTY, IN MEETING DULY ASSEMBLED:

That the County Board finds that the facts set forth  
above are in all respects true and correct and on such basis  
determines to finance the Project above described, and to  
authorize the sale of the Bonds by Aiken County as aforesaid.

BE IT FURTHER RESOLVED:

That the Petition in form substantially as attached  
hereto be presented to the State Board to seek the approval  
required by Section 14 of the Act; and that said Petition  
shall be duly executed by the Chairman of the County Board  
and attested by its Clerk.

(SEAL)

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Constituting the members of the Board  
of Commissioners of Aiken County

Attest:

\_\_\_\_\_  
Clerk of the Board of  
Commissioners of Aiken County



STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

TO THE STATE BUDGET AND CONTROL

BOARD OF SOUTH CAROLINA

P E T I T I O N

The Petition of the Board of Commissioners of Aiken County (the County Board), pursuant to Act No. 103 of the Acts of the General Assembly of the State of South Carolina for the year 1967, as amended, respectfully shows:

1. The County Board is the governing body of Aiken County as established under Article 4.1, Chapter 18, South Carolina Code of Laws, 1962, as amended, and is the "County Board" referred to in Act No. 103 of the South Carolina General Assembly enacted at its 1967 Session, as amended (the Act).

2. The Act authorizes and empowers the County Board if it shall comply with the provisions set forth in the Act, to acquire land, buildings, equipment and machinery and other improvements deemed necessary, suitable and useful by any manufacturing or processing enterprise; to lease the same; and to finance the acquisition of the same through the issuance of bonds payable from and secured by a pledge of the revenues to be derived from the leasing of such land, buildings, equipment and machinery and other improvements.

3. The County Board has agreed with Tilbury Associates, a joint venture formed under the laws of the State of New York (the Lessee), that the County Board will undertake to finance the acquisition and construction of new warehouse and distribution facilities to be located in Aiken County by the Lessee through the issuance of Industrial Revenue Bonds pursuant to the Act. In this connection the County Board has agreed to accept a conveyance of the 20 acre parcel of land on which

the facilities will be located (said land and the building constituting the said facilities being hereinafter referred to as the Project), and the County Board has agreed to issue Six Hundred Thousand Dollars (\$600,000) Aiken County First Mortgage Industrial Revenue Bonds, Series 1973 (Tilbury Associates, a joint venture - Lessee) pursuant to the Act in order to finance the acquisition and construction of the Project which, when completed, will constitute a new facility for the warehousing and distribution of fabrics to be used in the manufacturing of home furnishings and apparel.

4. The County Board is advised by the Lessee that the cost of acquiring the said land, including land improvements and the cost of constructing the said building, is approximately \$600,000; and that, therefore, in order to finance the acquisition and construction of the Project, including the costs and charges incident to the issuance and sale of the bonds hereinafter described, it will be necessary that the County Board issue Six Hundred Thousand Dollars (\$600,000) Aiken County First Mortgage Industrial Revenue Bonds, Series 1973 (Tilbury Associates, a joint venture - Lessee) (the Bonds).

5. When the Project is complete, it will employ approximately 15 persons and the construction of the Project will provide additional employment during the period of construction.

6. For the reasons above set forth and hereafter disclosed, the County Board has found:

(a) The proposed Project will subserve the purposes of the Act.

(b) By reason of undertaking the Project no pecuniary liability will result to the County nor will there be a charge against its general credit or taxing power.

(c) The proposed Lease between the County Board and the Lessee will unconditionally obligate the Lessee to pay rent in an amount adequate to provide for the principal and interest payments on the Bonds which mature and bear interest as follows:

3.

<u>December 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1974	\$ 15,000	5.00%
1975	20,000	5.15
1976	20,000	5.30
1977	20,000	5.40
1978	20,000	5.50
1979	25,000	5.60
1980	25,000	5.70
1981	25,000	5.80
1982	25,000	5.90
1983	30,000	6.00
1984	30,000	6.10
1985	30,000	6.20
1986	30,000	6.30
1987	35,000	6.40
1988	35,000	6.50
1989	40,000	6.50
1990	40,000	6.50
1991	40,000	6.50
1992	45,000	6.50
1993	50,000	6.50

(d) The Lessee proposes to obtain insurance from Commercial Loan Insurance Company insuring Lessee's obligation to pay rent under the Lease, and the Lessee's obligations under the said Lease, including the payment of all rentals and other sums to become due thereunder will be unconditionally guaranteed by Tilbury Fabrics, Inc. a New York corporation (the Guarantor).

(e) In view of the insurance to be obtained as aforesaid, it is unnecessary to establish reserve funds for the payment of such principal and interest (unless required by the purchaser or insurance company).

(f) The terms of the Lease will require the Lessee to carry proper insurance and to pay all costs of maintaining the Project in good repair.

7. Pursuant to Section 14 of the Act, the County Board sets forth the following information:

(a) The Project to be undertaken consists of land, buildings, other improvements which will be necessary for, and part of, facilities for the warehousing and distribution of fabrics to be used in the manufacture of home furnishings and apparel.



(b) The Project will provide considerable employment during the period of its construction and when completed will provide permanent employment for approximately 15 persons. It is, therefore, believed that the Project will have an extremely beneficial effect upon the economy of the County and areas adjacent thereto.

(c) The cost of the Project is approximately Six Hundred Thousand Dollars (\$600,000), including construction cost, cost of land, financing costs and all other expenses to be incurred in connection therewith.

8. The proposed Lease will provide, among other things, the following:

(a) To finance the cost of the acquisition and construction of the Project the County will issue \$600,000 of Aiken County First Mortgage Industrial Revenue Bonds, Series 1973 (Tilbury Associates, a joint venture - Lessee). All Bonds will be secured by a pledge of the rents to be paid by the Lessee and will be further secured by a Trust Indenture, as authorized by Section 5 of the Act, to a Bank yet to be named, as Trustee, and the obligations of the Lessee under the said Lease will be unconditionally guaranteed by the Guarantor and insured under an insurance policy to be issued by Commercial Loan Insurance Company.

(b) The proceeds derived from the sale of the Bonds will be deposited with the Trustee and will be withdrawn on requisition of the Lessee and the County and applied solely for the payment of costs incident to the acquisition and construction of the Project, and the issuance of the Bonds.

(c) The Lease will contain a specific provision by which the Lessee will unconditionally agree to make payments to Aiken County, to any School District in Aiken County, and to all other political units in which the Project is

situated, in lieu of taxes, in such amounts as would result from taxes levied on the Project by Aiken County, by any such School District, and by said political units if the Project were owned by the Lessee, but with appropriate reductions similar to the tax reductions, if any, which would be afforded the Lessee were it the owner of the Project.

(d) The Lease will contain no provision imposing any pecuniary liability upon the County or which would create a charge upon its general credit or taxing power.

(e) The Guarantor will enter into an agreement (the Lease Guaranty Agreement) with the County which will be attached to the said Lease and pursuant to which the Guarantor will unconditionally guarantee the performance of all of the obligations of the Lessee under the said Lease, including the payment of all rentals and other amounts to become due.

9. The Trust Indenture will be in conventional form and constitute a forecloseable mortgage upon the Project. Included in the granting clause of the mortgage will be:

(a) All real property and interests therein, acquired or to be acquired for the Project.

(b) The right, title and interest of the County in the Lease.

(c) The right, title and interest of the County in the Lease Guaranty Agreement.

(d) All rentals and revenues derived by the County under the Lease and Lease Guaranty Agreement, except those payments to be made in lieu of taxes or by way of indemnification, trustees fees or attorneys fees.

The Indenture makes provision for the issuance of Six Hundred Thousand Dollars (\$600,000) of Bonds to be secured thereunder. It provides for the payment and redemption of the Bonds, the establishment of a Bond Fund into which



the proceeds of the rents payable by the Lessee are placed, and the use of said fund for the payment of the Bonds.

It imposes upon the Lessee the obligation to pay, in addition to the moneys required for the payment of the principal and interest of the Bonds, all other costs and expenses resulting from the execution and delivery of the Indenture and the issuance of the Bonds pursuant thereto.

10. The proposed Lease and Lease Guaranty Agreement and the proposed Trust Indenture will be in the form heretofore used in the issuance of Industrial Revenue Bonds pursuant to the Act.

Upon the basis of the foregoing, the County Board respectfully prays:

That the State Budget and Control Board accept the filing of the Petition presented herewith and that it do, thereafter, and as soon as practicable, make its independent investigation of the Project and the terms and provisions of the Lease, the Lease Guaranty Agreement and the Trust Indenture, as it deems advisable, and that thereafter, the said State Board make a finding that the proposed Project will promote the purpose of the Act and that it is reasonably anticipated to effect such result, and on the basis of such finding, that it does approve the Project, including changes in any details of the said financing as finally consummated which do not materially affect the said undertaking, and give published notice of its approval in the manner set forth in Section 14 of the Act.

Respectfully submitted,

AIKEN COUNTY, SOUTH CAROLINA

(SEAL)

By

\_\_\_\_\_  
Chairman, Board of Commissioners of  
Aiken County

Attest:

\_\_\_\_\_  
Clerk of the Board of  
Commissioners of Aiken County

\_\_\_\_\_, 1973



SINKLER GIBBS SIMONS & GUÉRARD  
ATTORNEYS & COUNSELLORS AT LAW  
PROFESSIONAL ASSOCIATION

TELEPHONE 722-3366  
AREA CODE 803

HUGER SINKLER  
CHARLES H. GIBBS  
ALBERT SIMONS, JR.  
THEODORE B. GUÉRARD  
G. DANA SINKLER  
THOMAS A. HUTCHESON  
ROBERT H. HOOD  
CHARLES F. AILSTOCK  
M. WILLIAM YOUNGBLOOD, JR.  
JOHN H. WARREN, III

2 PRIOLEAU STREET

CHARLESTON, S. C. 29402

POST OFFICE BOX 340

September 29, 1973

Honorable P. C. Smith  
State Auditor  
P. O. Box 11333  
Columbia, South Carolina 29211

Dear Mr. Smith:

Re: \$600,000 Aiken County, South Carolina, First  
Mortgage Industrial Revenue Bonds, Series  
1973 (Tilbury Associates, a joint venture -  
Lessee)

I am enclosing herewith the original and ten copies  
of a proposed Resolution of the State Budget and Control  
Board in connection with the above bonds. I am also  
enclosing draft copies of the Lease Agreement, Guaranty  
Agreement and Trust Indenture to be used in connection  
with this issue.

I understand that Mr. Peter C. Mohr of the Robinson-  
Humphrey Company will be in Columbia on October 4 to present  
this issue to the State Board.

If we may supply you any further information in  
connection with this matter, please do not hesitate to  
call.

Yours very truly,

*20 Hutcherson*  
(y)

TAH:wjh

Enclosures

cc: Peter C. Mohr, Esq.

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RESOLUTION

STATE OF SOUTH CAROLINA BUDGET AND CONTROL BOARD

WHEREAS, heretofore the Board of Commissioners of Aiken County (the County Board) did, pursuant to Act No. 103 of the General Assembly of the State of South Carolina for the year 1967, as amended, (the Act), petition the State Budget and Control Board of South Carolina (the State Board) seeking the approval of the State Board to an undertaking by the County Board pursuant to the Act, and

WHEREAS, the proposed undertaking consists of the acquisition by the County Board of a parcel of land containing approximately 20 acres of land located in Aiken County, on which the County Board will finance the acquisition and construction of new warehouseing and distribution facilities to be used in the manufacturing of home furnishings and apparel (said 20 acre tract of land, and the building, constituting the said warehousing and distribution facilities being hereinafter referred to as the Project); and

WHEREAS, the Project is to be leased to Tilbury Associates, a joint venture under the laws of the State of New York (Tilbury) at a rental sufficient to provide for the payment of the bonds of Aiken County hereafter referred to, and costs and expenses resulting from the issuance thereof; at the option of Tilbury, the Project may be operated by Tilbury or sub-leased to Tilbury Facrics, Inc., a New York corporation; and

WHEREAS, the obligations of Tilbury, if it is the Lessor under the aforesaid Lease, will be unconditionally guaranteed by Tilbury Fabrics, Inc. (the Guarantor) under a Lease Guaranty Agreement with the County and the obligation of

Tilbury to pay rentals under the aforesaid Lease will be insured under an insurance policy (the Policy) to be issued by Commercial Loan Insurance Corporation; and

WHEREAS, in order to finance the Project the County Board proposes to provide for an issue of \$1,600,000 Aiken County First Mortgage Industrial Revenue Bonds payable from the rentals derived from Tilbury of its sub-lessee and additionally secured by a Trust Indenture between Aiken County and Farmers & Merchants Bank, Aiken, South Carolina, as Trustee; and

WHEREAS, the form of the Lease Agreement, Lease Guaranty Agreement and Trust Indenture have been considered by this Board.

NOW, THEREFOR, BE IT RESOLVED BY THE STATE BUDGET AND CONTROL BOARD IN MEETING DULY ASSEMBLED:

1. It has been found and determined by the State Board

(a) That the statement of facts set forth in the recitals of this Resolution are in all respects true and correct.

(b) That the County Board has filed a proper petition to the State Board establishing a reasonable estimate of the cost of the Project, a general summary of the terms and conditions of the Lease, the Lease Guaranty Agreement and the Trust Indenture to be made by the County Board and has established that Tilbury or its sub-lessee will pay as additional rentals, in lieu of taxes, the sums prescribed by Section 6 of the Act.

(c) That the Project will provide employment for approximately 15 persons and will be of benefit to Aiken County and adjoining areas.

(d) That the Project is intended to promote the purposes of the Act and is reasonably anticipated to effect such results.



2. On the basis of the foregoing findings the proposed undertaking of the County Board to acquire the land included in the Project, to finance the construction thereon of the buildings and improvements included in the Project, to lease the Project to Tilbury and to finance the cost of acquiring and constructing the Project through the issuance of \$1,600,000 Aiken County First Mortgage Industrial Revenue Bonds payable from the revenues to be derived from the leasing of the Project and additionally secured by the said Lease Guaranty Agreement, Trust Indenture and by the Policy, all pursuant to the Act (including changes in any details of the said financing as finally consummated which do not materially affect the said undertaking), be and the same is hereby approved.

3. Notice of the action taken of the State Board in giving approval to the undertaking of Aiken County above described in paragraph 2, supra, shall be published in THE STATE and in the STANDARD AND REVIEW, both of which are newspapers having general circulation in Aiken County.

4. That notice to be published shall be in form substantially as set forth as EXHIBIT "A" of this Resolution.

NOTICE PURSUANT TO ACT. NO. 103 OF  
THE ACTS OF THE GENERAL ASSEMBLY  
SOUTH CAROLINA FOR THE YEAR  
1967, AS AMENDED

Notice is hereby given that following the filing of a Petition by the Board of Commissioners of Aiken County (the County Board) to the State Budget and Control Board of South Carolina (the State Board), approval has been given by the State Board to the following undertaking (including changes in any details of the said financing as finally consummated which do not materially affect the said undertaking), viz:

The acquisition by the County Board of a parcel of land containing approximately 20 acres in Aiken County, on which the County Board will cause to be constructed new warehousing and distribution facilities (said 10 acre tract of land and the building constituting the said facilities being hereinafter referred to as the Project). To finance the acquisition and construction of the Project, the County Board will issue \$1,600,000 of Aiken County First Mortgage Industrial Revenue Bonds (the Bonds) pursuant to Act No. 103 of the Acts of the South Carolina General Assembly for the year 1967, as amended. The County Board will lease the Project to Tilbury Associates, a joint venture under the laws of New York (Tilbury), under a Lease Agreement, and the Bonds of Aiken County will be payable solely from the rentals to be paid to the County by Tilbury, which has irrevocably covenanted and agreed to pay when due, all sums required for the principal and interest thereon,

and the Bonds will be additionally secured by a Trust Indenture which will constitute a foreclosable lien upon the Project. The payment of certain rents required by the Lease Agreement will be insured pursuant to a policy of insurance issued by Commercial Loan Insurance Company. Tilbury has reserved the right to sub-lease the Project to Tilbury Fabrics, Inc., a New York corporation. In the event Tilbury remains the Lessee under the Lease Agreement, Tilbury Fabrics, Inc. will guaranty the obligations of Tilbury under the Lease Agreement pursuant to a Lease Guaranty Agreement between Aiken County and Tilbury Fabrics, Inc.

In addition, Tilbury has agreed to pay as additional rentals to Aiken County, the School District, and all other political units wherein the Project is located, in lieu of taxes, such amounts as would result from taxes levied on the Project by Aiken County, the said School District, and the said other political units wherein the Project is situate, if the Project were owned by Tilbury, but with appropriate reductions similar to the tax exemptions, if any, which would be afforded to Tilbury if it were the owner of the Project.

The Lease by which Aiken County will lease the Project to Tilbury will provide that Tilbury shall purchase the Project for One Dollar (\$1.00) upon the payment in full of the Bonds.

When completed, it is estimated that the Project will provide employment for approximately 15 persons.

Notice is further given that any interested party may at any time within twenty (20) days after the date of publication of this Notice, but not afterwards, challenge the validity of



A - 3

the action of the State Board in approving the undertaking of the County Board by action de novo instituted in the Court of Common Pleas for Aiken County.

THE STATE BUDGET AND CONTROL BOARD  
AIKEN COUNTY

By: P. C. SMITH, Secretary

PUBLICATION DATE:

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1893

STATE OF SOUTH CAROLINA,  
COUNTY OF RICHLAND.

I, P. C. SMITH, Auditor of the State of South Carolina,  
and Secretary of the State Budget and Control Board, DO HEREBY  
CERTIFY:

That the said State Budget and Control Board is composed  
of the following:

His Excellency, John C. West, Governor of South  
Carolina and Chairman of the Board;

The Honorable Grady Leslie Patterson, Jr., State  
Treasurer;

The Honorable John Henry Mills, Comptroller General  
of South Carolina;

The Honorable Rembert C. Dennis, Chairman of the Senate  
Finance Committee; and

The Honorable Robert James Aycock, Chairman of the  
House Ways and Means Committee.

That due notice of meeting of said Board, called to be  
held at the office of the \_\_\_\_\_  
\_\_\_\_\_, at Columbia, South Carolina, at \_\_\_\_\_, \_\_\_\_\_. M.,  
\_\_\_\_\_, 1973, was given to all members in writing,  
and at least four (4) days prior to said meeting; that all  
members of said Board were present at said meeting, with the  
exception of:

That at said meeting, a Resolution, of which the  
attached is a true, correct and verbatim copy, was introduced  
by \_\_\_\_\_, who moved its adoption; said motion was  
seconded by \_\_\_\_\_, and upon vote being taken and  
recorded it appeared that the following votes were cast:

FOR MOTION

AGAINST MOTION

-2-

That Chairman thereupon delivered the Resolution  
unanimously adopted, and the original thereof has been duly  
entered in the permanent records of minutes of said Board, in  
my custody as its Secretary.

---

Secretary

---

, 1973.



THIS LEASE AGREEMENT, dated as of OCTOBER 1, 1973 between AIKEN COUNTY, a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its Board of Commissioners of Aiken County, which is the governing body of said County, party of the first part, and TILBURY ASSOCIATES, a joint venture organized and existing under the laws of the State of New York, duly qualified to conduct business in the State of South Carolina, party of the second part,

W I T N E S S E T H:

In consideration of the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided that in the performance of the agreements of the party of the first part herein contained, any obligation it may thereby incur for the payment of money shall not create a pecuniary liability or a charge upon its general credit or against its taxing powers but shall be payable solely out of the proceeds derived from this Lease Agreement, the sale of the Bonds referred to in Section 2.1 hereof, the insurance proceeds, and proceeds from released property and condemnation awards as herein provided):

ARTICLE I

DEFINITIONS

SECTION 1.1. Certain terms used in this Lease Agreement are defined herein. When used herein, such terms shall have the meanings given to them by the language employed in this Article I defining such terms, unless the context clearly indicates otherwise.

SECTION 1.2. The following terms are defined terms under this Lease Agreement:

"ACT" means Act No. 103 of the Acts of the General Assembly of the State of South Carolina for the year 1967, as amended.

"ADDITIONS or ALTERATIONS" means improvements, replacements, alterations, additions, enlargements or expansions in, on or to the Project including any and all machinery and equipment therefor.

"AGREEMENT" or "LEASE AGREEMENT" means the within Lease Agreement between the County and the Lessee as the same may be amended from time to time in accordance with the provisions hereof.

"AUTHORIZED COUNTY REPRESENTATIVE" means the person at the time designated to act in behalf of the County by written certificate furnished to the Lessee and the Trustee, containing the specimen signature of such person and signed on behalf of the County by the Chairman of the County Board. Such certificate may designate an alternate or alternates.

"AUTHORIZED LESSEE REPRESENTATIVE" means the person at the time designated to act in behalf of the Lessee by written certificate furnished to the County and the Trustee, containing the specimen signature of such person and signed on behalf of the Lessee by its President, any of its Vice Presidents, or its Treasurer or by the Chairman of its Board of Directors. Such certificates may designate an alternate or alternates.

"BONDS" means the \$600,000 Aiken County, South Carolina, First Mortgage Industrial Revenue Bonds (Tilbury Associates, a Joint Venture - Lessee) to be issued pursuant to the Indenture.

"BOND FUND" means the Bond Fund created in Section 502 of the Indenture and referred to herein.

"BUILDING" means the buildings and all other facilities forming a part of the Project which, as set out in Section 4.1(a) hereof, are to be constructed on the Leased Land, as they may at any time exist, including any air conditioning and heating systems (which shall be deemed fixtures).

"CHAIRMAN" means the chief executive officer of the County Board. The term shall also include the Vice Chairman of the



County Board whenever, by reason of absence, illness, or other reason, the person who is the Chairman is unable to act.

"COMPLETION DATE" means the date of completion of the construction of the Building and all other facilities in connection with the Project as that date shall be certified as provided in Section 4.5 hereof.

"CONSTRUCTION FUND" means the Construction Fund created in Section 602 of the Indenture and referred to herein.

"CONSTRUCTION PERIOD" means the period between the beginning of construction or the date on which Bonds are first delivered to the purchaser thereof (whichever is earlier) and the Completion Date.

"COUNTY" means Aiken County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, and its successors and assigns.

"COUNTY BOARD" means the Board of Commissioners of Aiken County, and any successor body.

"GUARANTOR" means Tilbury Fabrics, Inc., a New York corporation, which has unconditionally guaranteed the performance of all of the obligations of the Lessee under this Agreement, including the payment of all rentals and other amounts to become due, as is more fully set forth in the Lease Guaranty Agreement of even date between the Guarantor and the County.

"INDENTURE" means the Trust Indenture between the County and Farmers & Merchants Bank, Aiken, South Carolina, as Trustee, of even date herewith, providing for the terms, conditions and provisions under which the Bonds will be issued, pursuant to which the County's interest in this Agreement and in the Lease Guaranty



Agreement, and the Lease Rentals received by the County from the Project are pledged, and pursuant to which the Project is mortgaged as security for the payment of principal, premium, if any, and interest on the Bonds, including any indenture supplemental thereto.

"INDEPENDENT COUNSEL" means an attorney duly admitted to practice law before the highest court of any state and not a full time employer of either the County, the Lessee or the Guarantor.

"INDEPENDENT ENGINEER" means an engineer or engineering firm registered and qualified to practice the profession of engineering under the laws of South Carolina and who or which is not a full time employee of either the County, the Lessee or the Guarantor.

"INSURER" means Commercial Loan Insurance Corporation, a Wisconsin corporation, the issuer of the Policy pursuant to which payment of the Lease Rentals is insured.

"LEASE GUARANTY AGREEMENT" means the agreement between the Guarantor and the County of even date herewith, whereby the Guarantor unconditionally guarantees the performance of all obligations of the Lessee under the Lease Agreement.

"LEASE GUARANTEE INSURANCE POLICY CLAIM ACCOUNT" means the Lease Guarantee Insurance Policy Claim Account created by Section \_\_\_\_ of the Indenture and referred to herein.

"LEASE RENTALS" means all of the revenues, rents and receipts derived directly or indirectly from the leasing or sale of the Project including all moneys received under the Lease Agreement (excepting only amounts paid pursuant to Sections 5.4, 5.5, 6.3, 8.7 or 10.4 thereof.)

"LEASE TERM" means the duration of the leasehold estate created in this Agreement as specified in Section 5.1 hereof.

"LEASED LAND" means the real property described in Exhibit "A" attached hereto which, by this reference thereto, is incorporated herein.

"LESSEE" means (i) the party of the second part hereto and its successors and assigns and (ii) any surviving, resulting or transferee corporation as provided in Section 8.3 hereof.

"NET PROCEEDS", when used with respect to any insurance or condemnation award, means the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including attorneys' fees and extraordinary expenses of the Trustee) incurred in the collection of such gross proceeds.

"ORIGINAL PURCHASER" means The Robinson-Humphrey Company, Inc.

"PENALTY RATE" shall mean interest at the rate of % per annum.

"PERMITTED ENCUMBRANCES" means, as of any particular time, (i) liens for ad valorem taxes not then delinquent, (ii) this Agreement and the Indenture, (iii) utility, access and other easements and rights of way, flood rights, encroachments, leases, restrictions and exceptions that an Independent Engineer and the Authorized Lessee Representative certify will not interfere with or impair the operations being conducted in the Building (or if the Building is not yet complete, the operations to be conducted) in the Building, or, if the Building has been completed and no operations are being conducted therein, the operations for which the Building was last designed or last modified),

(iv) such minor defects, irregularities, encumbrances, and clouds on title as normally exist with respect to properties similar in character to the Project and as do not in the opinion of an Independent Counsel, materially impair the title to the Project for the purposes for which it was acquired or is held by the County, and (v) mechanics' and materialmen's liens not filed or perfected in the manner prescribed by Chapter 5, Title 45, Code of Laws of South Carolina, 1962, as now or hereafter amended.

"POLICY" means the Lease Guarantee Insurance Policy insuring the payment of Lease Rentals. The Policy is attached hereto as Exhibit "C".

"PROJECT" means the Leased Land and the Building.

"SECRETARY" means the Secretary of the County Board. The term shall also include a person whose title is Clerk, and the Assistant or Acting Secretary or Clerk of the County Board whenever by reason of absence, illness or other reason, the person who is the Secretary or Clerk is unable to act.

"TRUSTEE" means the trustee and/or the co-trustee at the time serving as such under the Indenture.

SECTION 1.3. The words "hereof", "herein", "hereunder", and other words of similar import refer to this Lease Agreement as a whole.

SECTION 1.4. References to Articles, Sections and other subdivisions of this Lease Agreement are to the designated Articles, Sections, and other subdivisions of this Lease Agreement.

SECTION 1.5. The headings of this Lease Agreement are for convenience only and shall not define or limit the provisions hereof.



## ARTICLE II

### REPRESENTATIONS AND UNDERTAKINGS

SECTION 2.1. Representations by the County. The County makes the following representations as the basis for the undertakings on its part herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State of South Carolina, and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. The Project constitutes and will constitute a "project" within the meaning of the Act. By proper action by the County Board and the State Budget and Control Board of South Carolina, the County has been duly authorized to execute and deliver this Agreement.

(b) The County has acquired the Leased Land, upon which the Building is to be constructed by the Lessee and has authorized, and does hereby authorize, the Lessee to complete the construction of the Building thereon, and to install and construct all other things deemed necessary in connection with the Project, and the County proposes to lease the Project to the Lessee and to sell the Project to the Lessee at the expiration or earlier termination of the Lease Term, all for the purposes of promoting and employing the manpower and natural resources of South Carolina.

(c) Heretofore, and before construction of the Building was begun, the County and the Lessee did agree that the County would finance the cost of acquiring and constructing the Project. The Lessee has estimated that such cost will not exceed \$600,000 and on that basis the

County now proposes to issue the Bonds in the aggregate principal amount of \$600,000, which will be dated, mature and bear interest as set forth in Article II of the Indenture and which will be subject to redemption on the occasions and at the redemption prices set forth in Article III of the Indenture, in order to finance the cost of acquiring and constructing the Project.

SECTION 2.2. Representations by the Lessee. The Lessee makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Lessee is a joint venture duly formed under the laws of the State of New York, is in good standing under the laws of the State of New York and of the State of South Carolina, and has power to enter into this Agreement and by proper action has been duly authorized to execute and deliver this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Lessee is now a party or by which it is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessee under the terms of any instrument or agreement.

(c) Relying upon the agreement of the County to finance the cost of acquiring and constructing the Project as aforesaid, the Lessee has heretofore acquired the Leased Land.

(d) The Lessee intends to continue to operate the Project, from the Completion Date to the expiration or earlier termination of the Lease Term as provided herein as a warehousing and distribution facility.

(e) The acquiring of the Project by the County through the issuance of the Bonds and the leasing of the Project to the Lessee has induced the Lessee to establish this industrial enterprise in the County.

(f) This Lease Agreement, under which the County acquires the Project, leases and hereafter conveys the Project to the Lessee, is the method employed by the Lessee in financing the acquisition of the Project and in effecting the payment of the Bonds.



### ARTICLE III

#### DEMISING CLAUSE, WARRANTY OF TITLE, TITLE INSURANCE

SECTION 3.1. Demise of the Leased Land, Building and the Leased Equipment. The County demises and leases to the Lessee, and the Lessee lease from the County, the Leased Land and the Building at the rental set forth in Section 5.3 hereof and in accordance with the provisions of this Agreement.

SECTION 3.2. Warranty of Title. The County warrants that it has acquired a good and marketable fee simple title to the Leased Land, free from all encumbrances other than Permitted Encumbrances, and the County will furnish, at the time of the delivery of the First Series Bonds, a written opinion of Independent Counsel that it has good and marketable fee simple title to the Leased Land, subject to Permitted Encumbrances.

SECTION 3.3. Title Insurance. At the time of the delivery of the First Series Bonds, the County will provide a Mortgagee Title Insurance Policy (or appropriate Binder) upon the Leased Land and Building issued by a Company approved by the Trustee insuring the lien of the Indenture upon the Leased Land and Building, subject to no encumbrances other than Permitted Encumbrances, in the amount of not less than \$\_\_\_\_\_. Any Net Proceeds therefrom shall be used to remedy the title defect resulting in the payment thereof or shall be deposited in the Bond Fund.

ARTICLE IV

CONSTRUCTION OF THE PROJECT; ISSUANCE OF THE FIRST SERIES BONDS;  
CONSTRUCTION FUND

SECTION 4.1. Agreement to Construct and Equip the Building on the Leased Land. The County has acquired the Leased Land by deed duly recorded. The Lessee agrees that it will exercise the authorizations given to it by the County in Section 2.1(b) and:

(a) It will cause the Building to be constructed on the Leased Land wholly within the boundary lines thereof (the Building to contain the square footage as set forth in Exhibit "A" hereto, and to be used for the purposes set forth in Article II hereof); all of which will be constructed in accordance with a general description heretofore furnished to the County by the Lessee.

(b) It will cause to be acquired and installed in the Building or on the Leased Land for use of Lessee such items of machinery and equipment, and any transportation facility and equipment used as an integral part of the Project, which in Lessee's judgment may be necessary for the operation of the Project.

The Lessee agrees to complete the construction of the Building as promptly as practicable after receipt of proceeds from the sale of the Bonds and to continue the said construction with all reasonable dispatch, and to effect the acquisition and installation of the necessary equipment as promptly as practicable.

SECTION 4.2. Agreement to Issue Bonds; Application of Bond Proceeds. In order to provide funds for payment of the costs of the Project, the County agrees that it will, on

or before the       day of       19   , sell and cause to be delivered to the Initial Purchaser the Bonds in the aggregate principal amount of \$ 600,000 and will thereupon (i) deposit in the Bond Fund all accrued interest received on the sale of the Bonds and (ii) deposit in the Construction Fund the balance of the proceeds received from said sale.

SECTION 4.3.    Disbursements from the Construction Fund.

The County shall in the Indenture authorize and direct the Trustee to use the moneys in the Construction Fund and to pay out the same to the persons entitled thereto for the following purposes (but, subject to the provisions of Section 4.9 hereof, for no other purposes):

(a) Payment of the initial or acceptance fee of the Trustee; the fees for recording the deed whereby the Leased Land has been conveyed to the County, this Agreement, the Indenture, financing statements and any title curative documents that either the Trustee, the Lessee or Independent Counsel may deem desirable to file for record in order to perfect or protect the lien or security interest of the Indenture on the Project; and the fees and expenses in connection with any actions or proceedings that either the Trustee, the Lessee or Independent Counsel may deem desirable to bring in order to perfect or protect the title of the County to the Project or to perfect or protect the lien or security interest of the Indenture on the Project.

(b) Payment of such amounts, if any, as shall be necessary to make reimbursement in full for all advances and payments made prior to or after the delivery of the Bonds for expenditures in connection with

(i) the acquisition by the County of title to the Leased



or before the       day of       19   , sell and cause to be delivered to the Initial Purchaser the Bonds in the aggregate principal amount of \$ 600,000 and will thereupon (i) deposit in the Bond Fund all accrued interest received on the sale of the Bonds and (ii) deposit in the Construction Fund the balance of the proceeds received from said sale.

SECTION 4.3.    Disbursements from the Construction Fund.

The County shall in the Indenture authorize and direct the Trustee to use the moneys in the Construction Fund and to pay out the same to the persons entitled thereto for the following purposes (but, subject to the provisions of Section 4.9 hereof, for no other purposes):

(a) Payment of the initial or acceptance fee of the Trustee; the fees for recording the deed whereby the Leased Land has been conveyed to the County, this Agreement, the Indenture, financing statements and any title curative documents that either the Trustee, the Lessee or Independent Counsel may deem desirable to file for record in order to perfect or protect the lien or security interest of the Indenture on the Project; and the fees and expenses in connection with any actions or proceedings that either the Trustee, the Lessee or Independent Counsel may deem desirable to bring in order to perfect or protect the title of the County to the Project or to perfect or protect the lien or security interest of the Indenture on the Project.

(b) Payment of such amounts, if any, as shall be necessary to make reimbursement in full for all advances and payments made prior to or after the delivery of the Bonds for expenditures in connection with

(i) the acquisition by the County of title to the Leased

Land, including the cost of the Leased Land and the preparation of plans and specifications for the Project (including any preliminary study or planning of the Project or any aspect thereof), (ii) clearing the Leased Land, the construction of the Building, and all construction, acquisition and installation expenses required to provide utility services or other facilities, and all real or personal properties deemed necessary in connection with the Project (including architectural, engineering and supervisory services with respect to any of the foregoing), and (iii) any other costs and expenses relating to the Project.

(c) Payment of the cost of legal, financing and accounting fees and expenses, premium on the Policy, title insurance premium, and printing and engraving costs incurred in connection with the authorization, sale and issuance of the Bonds, the preparation of this Agreement, the Indenture, and all other documents in connection therewith and in connection with the acquisition of title to the Leased Land and the Building.

(d) Payment for labor, services, materials and supplies used or furnished in site improvement and in the construction of the Building, payment for all costs incident to the acquisition and installation of the Leased Equipment, payment for the cost of the construction, acquisition and installation of utility services or other facilities, and all real and personal property deemed necessary in connection with the Project and payment for the miscellaneous expenses incidental to any of the foregoing items including the premium on any surety bond.

(e) Payment of the fees, or out-of-pocket expenses, if any, for architectural, engineering and supervisory services with respect to the Project.

(f) Payment to the Trustee as such payments become due, of the fees and expenses of the Trustee (as Trustee, Bond Registrar and paying agent) and of any paying agent properly incurred under the Indenture that may become due during the Construction Period.

(g) To such extent as they shall not have been paid by a contractor for construction or installation with respect to any part of the Project, payment of the premiums on all insurance required to be taken out and maintained during the Construction Period under this Agreement.

(h) Payment of the taxes, assessments and other charges, if any, referred to in Section 6.3 hereof that may become payable during the Construction Period and, payment of such sum which, together with the accrued interest received on the occasion of their delivery will be required to pay the interest to become due on the Bonds to and including \_\_\_\_\_ 1, 197\_.

(i) Payment of expenses incurred in seeking to enforce any remedy against any contractor or subcontractor in respect of any default under a contract relating to the Project.

(j) Payment of any other costs and expenses relating to the Project.

(k) All moneys remaining in the Construction Fund after completion of the construction of the Building and acquisition and installation of the Leased Equipment and payment in full of the costs thereof, and after payment of all other items provided for in the preceding subsections (a) to (j), inclusive, of this Section, shall at the direction of the Lessee be (i) used by the Trustee for the purchase of Bonds for the purpose of cancellation, at prices not exceeding the principal amount



thereof plus accrued interest thereon to the date of delivery, or (ii) paid into the Bond Fund, except for amounts retained by the Trustee with the approval of the Authorized Lessee Representative for payment of Project costs not then due and payable; any balance remaining of such retained funds after full payment of all such Project costs to be used by the Trustee as directed by the Lessee in the manner specified in clauses (i) and (ii) of this subsection.

Provided that:

(1) Each of the payments made pursuant to the preceding subsections (a), (b), (c), (d), (e), (g), (i) and (j) of this Section shall be made only upon receipt by the Trustee of a written order by the Authorized Lessee Representative and by the Authorized County Representative which shall certify with respect to each such payment: (i) that none of the items for which the payment is proposed to be made has formed the basis for any payment theretofore made from the Construction Fund and (ii) that each item for which the payment is proposed to be made is or was necessary in connection with the Project.

(2) In the case of any contract providing for retention by the Lessee of a portion of the contract price, there shall be paid from the Construction Fund only the net amount remaining after deduction of any such portion, until such retainage becomes due in accordance with the terms of such contract.

SECTION 4.4. Trustee May Rely on Orders and Certifications. In making any such payment from the Construction Fund, the Trustee may rely on any such orders and certifications delivered to it pursuant to Section 4.3, and the Trustee shall be relieved of all liability with respect to making such payments in accordance with such orders and certifications.

SECTION 4.5. Establishment of Completion Date. The Completion Date shall be evidenced to the Trustee by a certifi-

cate signed by the Authorized Lessee Representative stating that, except for amounts retained by the Trustee for Project costs not then due and payable as provided in Section 4.3(k), (i) construction of the Building has been completed in accordance with the specifications therefor and all labor, services, materials and supplies used in such construction have been paid for, and (ii) all other facilities necessary in connection with the Project have been constructed, acquired and installed in accordance with the specifications therefor and all costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. It shall be the duty of the Lessee to cause the certificate contemplated by this Section 4.5 to be furnished as soon as the Project shall have been completed.

SECTION 4.6. Lessee Required to Pay Construction Costs in Event Construction Fund Insufficient. In the event the moneys in the Construction Fund available for payment of the costs of the Project shall not be sufficient to pay the costs thereof in full, the Lessee agrees to complete, or cause to be completed, the Project and to pay all that portion of the costs of the Project as may be in excess of the moneys available therefor in the Construction Fund. The County does not make any warranty, either express or implied, that the moneys which will be paid into the Construction Fund and which, under the



provisions of this Agreement, will be available for payment of the costs of the Project, will be sufficient to pay all the costs which will be incurred in that connection. The Lessee agrees that if after exhaustion of the moneys in the Construction Fund the Lessee shall pay any portion of the said costs of the Project pursuant to the provisions of this Section, it shall not be entitled to any reimbursement therefor from the County or from the Trustee or from the holders of any of the Bonds, nor shall it be entitled to any diminution of the rents payable under Section 5.3 hereof. The obligation of the Lessee to complete the Project shall survive any termination of this Agreement.

SECTION 4.7. Authorized Lessee and County Representatives and Successors. The Lessee and the County Board, respectively, shall designate, in the manner prescribed in Section 1.2, the Authorized Lessee Representative and the Authorized County Representative. In the event that any person so designated and his alternate or alternates, if any, should become unavailable or unable to take any action or make any certificate provided for or required in this Agreement, a successor shall be appointed in the same manner.

SECTION 4.8. Enforcement of Remedies Against Contractors and Subcontractors and Their Sureties. The Lessee covenants that it will take such action and institute such proceedings as shall be necessary to cause and require all contractors and material suppliers to complete their contracts, including, without limitation, the correcting of any defective work, with all expenses incurred by Lessee in connection with the performance of its obligations under this Section 4.8 to be considered part of the Project costs referred to in Section 4.3(j), and the County agrees that the Lessee may, from time to time, in its own name, or in the name of the County, take such action as may be necessary or advisable, as determined by Lessee,



to insure the construction of the Project in accordance with the terms of such construction contracts, to insure the peaceable and quiet enjoyment of the Project for the Lease Term, and to insure the performance by the County of all covenants and obligations of the County under this Agreement, with all costs and expenses incurred by the Lessee in connection therewith to be considered as part of the Project costs referred to in Section 4.3(j). Any amounts recovered by way of damage, refunds, adjustments or otherwise in connection with the foregoing, less any unreimbursed legal expenses incurred in order to collect the same, shall be paid into the Construction Fund and after the Completion Date shall be paid into the Bond Fund.

SECTION 4.9. Investment of Construction Fund Moneys Permitted - Limitation on Investments. Any moneys held as part of the Construction Fund shall at the written request of the Authorized Lessee Representative be invested or re-invested by the Trustee to the extent permitted by law in the manner set forth below but with maturities consonant for anticipated expenditures to be made from the Construction Fund:

- (i) obligations of the United States and agencies thereof;
- (ii) general obligations of the State of South Carolina or any of its political units;
- (iii) Savings and Loan Associations to the extent that the same are insured by the Federal Savings and Loan Insurance Corporation; or
- (iv) certificates of deposit where such certificates of deposit are collaterally secured by securities of the type described in (i) and (ii) above held by a third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest.

Such investments shall be as specified by the Authorized Lessee Representative.

The Lessee further covenants and agrees:

(a) That it will not direct the Trustee to invest any moneys held as a part of the Construction Fund in a manner which shall be contrary to any policy or rules or regulations of the Internal Revenue Service with respect to "arbitrage bonds" within the meaning of Section 103(d)

(2) of the Internal Revenue Code of 1954, as amended, and the applicable regulations issued thereunder and as in effect on the occasion of the delivery of the Bonds (the Regulations); and

(b) It will furnish to the County accurate information to enable the appropriate County officers and Bond Counsel to make all necessary certifications required by the Regulations.

ARTICLE V

EFFECTIVE DATE OF THE AGREEMENT; DURATION OF LEASE TERM;  
RENTAL PROVISIONS; PAYMENTS IN LIEU OF TAXES AND  
UNCONDITIONAL OBLIGATIONS OF LESSEE

SECTION 5.1. Effective Date of this Agreement;

Duration of Lease Term. This Agreement shall become effective upon its delivery and the leasehold estate created by this Agreement shall then begin, and, subject to the provisions of this Agreement (including particularly Articles X, XI and Section 12.2), shall expire December 1, 19\_\_.

SECTION 5.2. Delivery and Acceptance of Possession.

The County agrees to deliver to the Lessee sole and exclusive possession of the Leased Land upon the execution and delivery of this Agreement and Lessee thereupon and thereafter shall have sole and exclusive possession of the Project during the Lease Term (subject to the right of the County, the Insurer and Trustee to enter thereon for inspection purposes and to the other provisions of Section 8.2 hereof).

SECTION 5.3. Rents and Other Amounts Payable.

(a) (i) On or before May 15, 1974, Lessee shall pay to the Trustee such amount as shall be necessary to pay interest on the Bonds falling due on June 1, 1974.

(ii) On or before the 10th day of December, 1973, and on or before the 10th day of each month thereafter, to and including May 10, 1974, Lessee shall pay to the Trustee \$2,360 for deposit in the Lease Guarantee Insurance Policy Claim Account.

(iii) On or before the 10th day of June, 1974, and on or before the 10th day of each month thereafter, to and including November 10, 1974, Lessee shall pay to the Trustee for deposit in the Bond Fund one-sixth (1/6th) of the interest and one-sixth (1/6th) of the principal falling due on the Bonds on December 1, 1974.



(iv) On or before the 10th day of December, 1974, and on or before the 10th day of each month thereafter, until the principal of, premium, if any, and interest on the Bonds shall have been fully paid, or provision for the payment thereof shall have been made in accordance with the Indenture, Lessee shall pay to the Trustee for deposit in the Bond Fund as rent for the Project an amount equal to one-sixth (1/6th) of the interest falling due on the Bonds on the next succeeding interest payment date and one-twelfth (1/12th) of the principal falling due on the Bonds on the next succeeding principal payment date.

In any event each rental payment under this Section shall be sufficient, together with the other rental payments hereinabove prescribed, to pay the total amount of interest or interest and principal (whether at maturity or by redemption or acceleration as provided in the Indenture) and premium, if any, payable on the next succeeding interest payment date, and if on any interest payment date the balance in the Bond Fund is insufficient to make the required payments of principal (whether at maturity or by redemption or acceleration as provided in the Indenture) and premium, if any, and interest on such date, the Lessee shall forthwith pay any such deficiency; provided that any amount at any time held by the Trustee in the Bond Fund shall be credited against the next rental payment to the extent such amount is in excess of the amount required to be on deposit in accordance with (iii) and (iv), above, and for payment of Bonds theretofore matured or called for redemption and past due interest in all cases where such Bonds or coupons have not been presented for payment; and provided further, that if the amount held by the Trustee in the Bond Fund should be sufficient to pay at the times required the principal of, premium, if any, and interest on the Bonds then remaining unpaid, the Lessee shall not be obligated to make any further rental payments under the foregoing provisions of this Section.

The Lessee recognizes that the County's interest under this Agreement, including the right to receive the Lease Rentals has been assigned simultaneously with the execution of this Agreement to the Trustee pursuant to the terms of the Indenture; and, in order to additionally secure the payment of the principal of, premium, if any, and interest on the Bonds on the occasions when the same are expressed to become due and payable, and in consideration of the County having made available to the Lessee this method of acquiring and financing the Project, Lessee unconditionally guarantees to the County for the benefit of the persons who shall from time to time be the holders of the Bonds and the coupons appertaining thereto, its successors and assigns, the payment in full of an amount equal to the amount of the principal of, premium, if any, and interest on the Bonds as and when the same are expressed to become due and payable, either upon maturity or acceleration or declaration as provided in the Indenture.

In the event the Lessee shall fail to make any of the payments required in this Section, the item or installment so in default shall continue as an obligation of the Lessee until the amount in default shall have been fully paid, and the Lessee agrees to pay the same with interest thereon at the Penalty Rate until paid. The provisions of this Section shall be subject to the provisions of Section 9.6 hereof.

SECTION 5.4. Payment of Trustee's Fees and Expenses.

In addition to other payments herein prescribed, the Lessee agrees to pay to the Trustee until the principal of, premium, if any, and interest on the Bonds shall have been fully paid (i) an amount equal to the annual fee of the Trustee for the ordinary services of the Trustee, as Trustee, rendered and its ordinary expenses, as Trustee, incurred under the Indenture, as and when the same become due, (ii) reasonable



fees and charges of the Trustee as Bond Registrar and paying agent, and any other paying agents on the Bonds, for acting as paying agents as provided in the Indenture, as and when the same become due, and (iii) the reasonable fees and charges of the Trustee for the necessary extraordinary services rendered by it and extraordinary expenses incurred by it under the Indenture, as and when the same become due; provided, that the Lessee may, without creating a default hereunder, contest in good faith the necessity for any such extraordinary services and extraordinary expenses and reasonableness of any such fees, charges or expenses.

In the event the Lessee shall fail to make any of the payments required in this Section, the item or installment so in default shall continue as an obligation of the Lessee until the amount in default shall have been fully paid, and the Lessee agrees to pay the same with interest thereon at the Penalty Rate until paid.

SECTION 5.5. Payments in Lieu of Taxes. It is recognized that under the provisions of the Act when any project is leased by a county pursuant to the Act the lessee thereof shall be required to make payments to the county, the school district or school districts, and other political units wherein the project shall be located in lieu of taxes, in such amounts as would result from taxes levied on the project by such county, school district or school districts, and other political unit or units, if the project were owned by the lessee, but with appropriate reductions similar to the tax exemptions, if any, which would be afforded to the lessee if it were the owner of the project. For the sole purpose of enabling the Lessee to comply with the aforesaid obligation, it is agreed that the County in cooperation with the Lessee (i) shall cause the Project to be valued as if privately owned as aforesaid for purposes of the said taxes by the State Tax Commission of South



Carolina or such other appropriate officer or officers as may from time to time be charged with responsibility for making such valuations; (ii) shall cause to be appropriately applied to the valuation or valuations so determined the respective rate or rates of such taxes, that would be applicable to the Project if so privately owned; (iii) shall cause the respective appropriate officer or officers charged with the duty of levying and collecting taxes to submit to the Lessee, when the respective levies are made upon property privately owned as aforesaid, a statement specifying the amount and due date of such taxes which the County, school district and other political units having taxing powers would receive if the Project were so privately owned; and Lessee shall file any accounts or tax returns required with the appropriate officer or officers. The Lessee shall pay to the aforesaid taxing authorities when due all such payments in lieu of taxes with respect to the Project required by the Act to be paid to the aforesaid taxing authorities, subject in each case to the Lessee's right to obtain exemptions (and discounts), if any, therefrom which would be afforded to a private owner of the Project and to seek to obtain a refund of any such payments made, and to contest the same in the manner and to the extent provided in Section 6.3 in the case of taxes and other governmental charges. The Lessee's obligation to make such additional payments shall continue only so long as and to the extent the Lessee is required by law to pay the aforesaid amounts in lieu of taxes. Once having paid the amounts required by this Section 5.5 to be paid by it in lieu of taxes, the Lessee shall not be required to pay any such taxes for which a payment in lieu thereof has been made to the State or to any city, county, town, school district or other political unit. In the event the Lessee shall fail to make any of the payments required by this Section 5.5, the amount or amounts so in default shall continue as an obligation of the Lessee until fully paid and the Lessee agrees to pay the same with interest thereon at the Penalty Rate until paid.

SECTION 5.6. Obligations of Lessee Hereunder Unconditional. Subject to the provisions of this Section and Section 9.6 hereof, the obligations of the Lessee to make the payments required in Sections 5.3 and 5.5 hereof and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional and until such time as the principal of, and interest and premium, if any, on the Bonds shall have been fully paid or provisions for the payment thereof shall have been made in accordance with the Indenture, the Lessee (i) will not suspend or discontinue any payments provided for in Section 5.3 hereof, (ii) will perform and observe all of its other agreements contained in this Agreement, and (iii) except as provided in Section 11.1 hereof will not terminate the Lease Term for any cause including, without limiting the generality of the foregoing, failure of the Lessee to complete the Project, the taking by eminent domain of title to or the right of temporary use of all or any part of the Project, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or South Carolina or any political subdivision of either thereof or any failure of the County to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement. Nothing contained in this Section shall be construed to release the County from the performance of any of the agreements on its part herein contained; and in the event the County should fail to perform any such agreement on its part, the Lessee may institute such action against the County as the Lessee may deem necessary to compel performance so long as such action does not abrogate the Lessee's obligations con-

tained in the first sentence of this Section 5.6. The Lessee may, however, at its own costs and expense and in its own name or in the name of the County, prosecute or defend any action or proceeding or take any other action involving third persons which the Lessee deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the County hereby agrees to cooperate fully with the Lessee and to take all action necessary to effect the substitution of the Lessee for the County in any such action or proceeding if the Lessee shall so request.

SECTION 5.7. Place of Rental Payments. The payments provided for in Section 5.3 hereof shall be paid directly to the Trustee for the account of the County and shall be deposited in the Bond Fund. The payments to be made to the Trustee under Section 5.4 hereof shall be paid directly to the Trustee for its own use or for disbursement to the paying agents, as the case may be.



ARTICLE VI

MAINTENANCE, TAXES AND INSURANCE

SECTION 6.1. Maintenance and Modifications of Project

by Lessee. The Lessee agrees that during the Lease Term it will at its own expense (i) keep the Project in as reasonably safe condition as its operations shall permit and (ii) keep the Project in good repair and in good operating condition, making from time to time, all necessary repairs thereto and renewals and replacements thereof. The Lessee may, also at its own expense, make from time to time any Additions or Alterations to the Project it may deem desirable for its business purposes that do not adversely affect the operations being conducted in and upon the Project (or, if no operations are being conducted, the operations for which the Project was designed or last modified). Subject to the provisions of Section 6.2 hereof, such Additions and Alterations so made by the Lessee shall be on the Leased Land and become a part of the Project. The Lessee shall not permit any mechanics' or other liens to be established or remain against the Project for labor or materials furnished in connection with any additions, modifications, improvements, repairs, renewals or replacements so made by it; provided, that if the Lessee shall first notify the Trustee of its intention so to do, the Lessee may in good faith contest any mechanics' or other liens filed or established against the Project, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless the Trustee shall notify the Lessee that, in the opinion of Independent Counsel, by non-payment of any such items, the lien of the Indenture as to any part of the Project will be materially endangered or the Project or any part thereof will be subject to loss or forfeiture, in which event the Lessee shall promptly pay and cause to be satisfied and discharged

all such unpaid items. The County will cooperate fully with the Lessee in any such contest.

SECTION 6.2. Installation of Lessee's Own Machinery and Equipment. Subject always to the provisions of Section 8.9, the Lessee may from time to time in its sole discretion and at its own expense, install machinery, equipment and other personal property which may be attached or affixed to the Project. All such machinery, equipment and other personal property shall remain the sole property of the Lessee and the Lessee may remove the same from the Project at any time, in its sole discretion and at its own expense; provided, that any damage to the Project resulting from any such removal shall be repaired by the Lessee at the expense of the Lessee. The Lessee may create any mortgage, encumbrance, lien or charge on any such machinery, equipment and other personal property provided that the same will not diminish or impair the security intended to be given by or under the Indenture. Neither the County nor the Trustee shall have any interest in or landlord's lien on any such machinery, equipment or personal property so installed pursuant to this Section 9.7 and all such machinery, equipment and personal property shall be and remain identified as the property of the Lessee by appropriate tags or other markings.

SECTION 6.3. Taxes, Other Governmental Charges and Utility Charges. The County and the Lessee acknowledge (i) that pursuant to Section 13 of the Act, no part of the Project owned by the County will be subject to taxation in South Carolina, that under present law the income and profits (if any) of the County from the Project are not subject to either Federal or South Carolina taxation and that under present law there is no tax imposed upon leasehold estates in South Carolina,



and (ii) that these factors, among others, have induced the Lessee to enter into this Agreement.

However, the Lessee will pay, as the same become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project or any machinery, equipment or other property installed or brought by the Lessee therein or thereon (including, without limiting the generality of the foregoing, any taxes levied upon or with respect to the Lease Rentals of the County from the Project which, if not paid, will become a lien on the Project prior to or on a parity with the lien of the Indenture or a charge on the Lease Rentals therefrom prior to or on a parity with the charge thereon and the pledge or assignment thereof to be created and made in the Indenture, and including all ad valorem taxes lawfully assessed upon the leasehold estate hereby granted and conveyed to the Lessee in the Project), all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project and all assessments and charges lawfully made by any governmental body for public improvements that may be secured by lien on the Project; provided, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only such installments as are required to be paid during the Lease Term.

If the Lessee shall first notify the Trustee of its intention so to do, the Lessee may, at its expense and in its own name and behalf or in the name and behalf of the County, in good faith contest any such taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Trustee shall notify the Lessee that, in the opinion of Independent Counsel, by non-payment of any such



items the lien of the Indenture will be materially endangered or the Project or any part thereof will be subject to loss or forfeiture, in which event such taxes, assessments or charges shall be paid promptly. The County will cooperate fully with the Lessee in any such contest. In the event that the Lessee shall fail to pay any of the foregoing items required by this Section to be paid by the Lessee, the County or the Trustee may (but shall be under no obligation to) pay the same and any amounts so advanced therefor by the County or the Trustee shall become an additional obligation of the Lessee to the one making the advancement, which amounts, together with interest thereon at the Penalty Rate from the date thereof until paid, the Lessee agrees to pay.

The County agrees that any investment tax credit with respect to the Project shall be made available to the Lessee and the County will fully cooperate with the Lessee in any effort by the Lessee to avail itself of any such investment tax credit.

SECTION 6.4. Insurance Required. Throughout the Lease Term, the Lessee shall keep the Project continuously insured as hereinafter provided, paying (except as provided in Section 4.3 hereof) as the same become due all premiums in respect thereto. Such insurance shall include but not necessarily be limited to:

(a) Insurance upon the repair or replacement basis if available, and otherwise to the full insurable cash value of the Project as determined by an insurer selected by the Lessee or as otherwise agreed to by the County and Lessee, against loss or damage by fire and lightning, with uniform standard extended coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in South Carolina; provided that the insurance required by this subsection may contain a deductible provision of not in excess of \$                      direct damage applicable

to each separate instance of loss or damage insured against. In time of war in which the United States is a belligerent, such insurance to the extent of the full insurable cash value of the Project as may be available from the United States of America against loss thereof or damage thereto from risks and hazards of war, if such insurance is then generally carried by owners of industrial plants in South Carolina.

(b) Boiler and pressure vessel (including pressure pipes) explosion insurance in an amount at least equal to \$ (with deductible provisions not to exceed \$ ) with respect to all boilers and pressure vessels and pressure pipes installed in the Project.

(c) General public liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Project and the adjoining streets, sidewalks, and passageways, such insurance to afford protection of not less than \$ with respect to bodily injury to any one person, not less than \$ with respect to bodily injury to two or more persons in any one accident, and the policies evidencing such insurance may provide that the Lessee shall be self insured to the extent of \$ in connection with each separate claim insured against. Such self insurance may, at the Lessee's option, be taken directly as a deductible or indirectly under any type of retrospective rating arrangement between the Lessee and such insurer as it may select.

(d) Insurance (or authorization by the appropriate officials of the State of South Carolina to self insure) covering any liability under the Workmen's Compensation laws of South Carolina for deaths of or injuries to persons arising out of any act or omission during the Lease Term.

SECTION 6.5. Application of Net Proceeds of Insurance.  
The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.4 hereof shall be applied as follows:



(i) the Net Proceeds of the insurance required in Section 6.4(a) and (b) hereof shall be applied as provided in Section 7.1 hereof, and (ii) the Net Proceeds of the insurance required in Section 6.4(c) and (d) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

SECTION 6.6. Additional Provisions Respecting Insurance.

All insurance required in Section 6.4 hereof shall be taken out and maintained in generally recognized responsible insurance companies selected by the Lessee. All policies evidencing such insurance shall provide for payment of the losses to the County, the Lessee and the Trustee as their respective interests may appear, and the policies required by Section 6.4(a) and (b) shall contain standard mortgagee clauses requiring that all Net Proceeds of insurance resulting from any claim in excess of \$        for loss or damage covered thereby be paid to the Trustee; provided, however, that all claims regardless of amount may be adjusted by the Lessee with the insurers, subject to approval of the Trustee as to settlement of any claim in excess of \$        . The insurance hereby required may be contained in blanket policies now or hereafter maintained by the Lessee.

All such policies or a certificate or certificates of the insurer that such insurance is in force and effect shall be deposited with the Trustee and shall contain a provision that any such policy may not be cancelled unless the Trustee is notified at least 15 days prior to cancellation; and at least 15 days prior to expiration of any such policy, the Lessee shall furnish the Trustee with evidence satisfactory to the latter, that the policy has been renewed or replaced or is no longer required by this Lease.

SECTION 6.7. Advances by County or Trustee. In the event the Lessee shall fail to maintain the full insurance coverage required by this Lease or shall fail to keep the Pro-



ject in as reasonably safe condition as its operating conditions will permit, or shall fail to keep the Project in good repair and good operating condition, the County or the Trustee, after written notice to the Lessee of their intent to take such action, may (but unless satisfactorily indemnified shall be under no obligation to) take out the required policies of insurance and pay the premium on the same or make the required repairs, renewals and replacements; and all amounts so advanced therefor by the County or the Trustee shall become an additional obligation of the Lessee to the one making the advancement, which amounts, together with interest thereon at the Penalty Rate from the date hereof, the Lessee agrees to pay.

ARTICLE VII

DAMAGE, DESTRUCTION AND CONDEMNATION

SECTION 7.1. Damage and Destruction. (a) Unless the Project shall be damaged to the extent prescribed by, and the Lessee shall elect to exercise its option to purchase pursuant to, the provisions of Section 11.2(a) hereof, if prior to full payment of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) the Project is damaged by fire or other casualty to such extent that the claim for loss under the insurance policies required to be carried pursuant to Section 6.4(a) and Section 6.4(b) hereof resulting from such destruction or damage is not greater than \$           , the Lessee (i) shall promptly repair, rebuild or restore the Project to substantially the same condition thereof as existed prior to the event causing such damage or destruction with such changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Lessee and as will not impair the value or the character of the Project as a warehousing and distribution facility, and (ii) will apply for such purpose so much as may be necessary of any Net Proceeds of insurance resulting from such claims for losses. All Net Proceeds of insurance resulting from such claims for losses not in excess of \$            shall be paid to the Lessee, subject to the provisions of Section 7.1(e).

(b) Unless the Project shall be destroyed or damaged to the extent prescribed by, and the Lessee shall elect to exercise its option to purchase pursuant to, the provisions of Section 11.2(a) hereof, if prior to full payment of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) the Project is destroyed or is damaged (in whole or in part) by fire or other casualty

to such extent that the claim for loss under the insurance policies required to be carried pursuant to Section 6.4(a) and Section 6.4(b) hereof resulting from such destruction or damages is in excess of \$ , the Lessee shall promptly give written notice thereof to the Trustee. All Net Proceeds of insurance resulting from such claims for losses in excess of \$ shall be paid to and held by the Trustee in a separate trust account whereupon the Lessee shall proceed promptly to repair, rebuild or restore the Project to substantially the same condition thereof as existed prior to the event causing such damage or destruction with such changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Lessee and as will not impair the value or the character of the Project as a plant for the manufacture of the products referred to in Section 2.2(d) or such other products as the Lessee may deem appropriate, whereupon the Trustee shall apply so much as may be necessary of the Net Proceeds of such insurance to payment of the costs of such repair, rebuilding or restoration, either on completion thereof or as the work progresses.

(c) In the event the Net Proceeds are not sufficient to pay in full the costs of any such repair, rebuilding or restoration, the Lessee shall nonetheless complete said work and shall pay that portion of the costs thereof in excess of the amount of said Net Proceeds.

(d) The Lessee shall not, by reason of the payment of such excess costs be entitled to any reimbursement from the County, the Trustee or the holders or owners of the Bonds or any abatement or diminution of the rents payable under Section 5.3 hereof.

(e) Any balance of such Net Proceeds remaining after payment of all costs of such repair, rebuilding or restoration shall be paid into the Bond Fund. If the Bonds have been fully paid (or provision therefor has been made in accordance with



the Indenture), all Net Proceeds shall be paid to the Lessee.

(f) Notwithstanding any other provision of this Section, in any event of damage or destruction when no Bonds are then outstanding and unpaid, there shall be no obligation on the part of the Lessee to restore the Project.

SECTION 7.2. Condemnation. Unless title to, or temporary use of, all or substantially all, or any material portion, of the Project shall have been taken by condemnation and the Lessee shall elect to exercise its option to purchase pursuant to the provisions of Section 11.2(b) hereof, in the event that title to, or the temporary use of, the Project or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, the Lessee shall be obligated to continue to make the rental payments specified in Section 5.3 hereof. The County, the Lessee and the Trustee shall cause the Net Proceeds received by them or any of them from any award made in such eminent domain proceedings, to be paid to and held by the Trustee in a separate trust account, to be applied in one or more of the following ways as shall be directed in writing by the Lessee:

(a) To the restoration of the Project to substantially the same condition thereof as existed prior to the exercise of the said power of eminent domain.

(b) To the acquisition, by construction or otherwise, in the name of the County of improvements consisting of a building or buildings, facilities, machinery, equipment or other properties suitable for the Lessee's operations at the Project (which improvements shall be deemed a part of the Project and available for use and occupancy by the Lessee without the payment of any rent other than as herein provided to the same extent as if such other improvements were specifically described

herein and demised hereby); provided, that such improvements shall be acquired by the County subject to no liens or encumbrances prior to or on a parity with the lien of the Indenture, other than Permitted Encumbrances.

(c) For deposit into the Bond Fund, provided that the Lessee shall furnish to the County and the Trustee a certificate of an Independent Engineer acceptable to the County and the Trustee stating (i) that the property forming a part of the Project that was taken by such condemnation proceedings is not essential to the Lessee's use or occupancy of the Project, or (ii) that the Project has been restored to a condition substantially equivalent to its condition prior to the taking by such condemnation proceedings or (iii) that improvements have been acquired which are suitable for the Lessee's operations at the Project as contemplated by the foregoing subsection (b) of this Section.

Unless the lessee shall have elected to exercise its option to purchase pursuant to the provisions of Section 11.2(b) hereof within ninety days from the date of entry of a final order in any eminent domain proceedings granting condemnation, the Lessee shall direct the County and the Trustee in writing as to which of the ways specified in this Section the Lessee elects to have the condemnation award applied.

Any balance of the Net Proceeds of the award in such eminent domain proceedings shall be paid into the Bond Fund. If the Bonds have been fully paid (or provision for payment thereof has been made in accordance with the provisions of the Indenture), all Net Proceeds shall be paid to the Lessee.

The County shall cooperate fully with the Lessee in the handling and conduct of any prospective or pending condemnation proceeding with respect to the Project or any part thereof and shall, to the extent it may lawfully do so, permit the Lessee to litigate in any such proceeding in the name and

behalf of the County. In no event shall the County voluntarily settle, or consent to the settlement of, any prospective or pending condemnation proceeding with respect to the Project or any part thereof without the written consent of the Lessee.

Notwithstanding any other provision of this Section, in any event of condemnation when no Bonds are then outstanding and unpaid, there shall be no obligation on the part of Lessee to restore or repair the Project.

SECTION 7.3. Condemnation of Lessee-Owned Property.

The Lessee shall also be entitled to the Net Proceeds of any condemnation award or portion thereof made for damages to or takings of its own property not included in the Project (except for damages for the value of its leasehold estate under this Agreement which shall be disposed of pursuant to Section 7.2 hereof).



ARTICLE VIII

SPECIAL COVENANTS, IMPROVEMENT BONDS

SECTION 8.1. No Warranty of Condition or Suitability  
by the County. The County makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Lessee's purposes or needs.

SECTION 8.2. County's and Trustee's and Insurer's Right of Access to the Project. The Lessee agrees that the County, the Trustee and the Insurer, and the duly authorized agents of each of them, shall have the right at all reasonable times to enter upon the Leased Land and to examine and inspect the Project, including such rights of access to the Project as may be reasonably necessary for the proper maintenance of the Project in the event of failure by the Lessee to perform its obligations under Section 6.1 hereof. The rights of access hereby reserved to the County and the Trustee may be exercised only after any such agent shall have executed release of liability and secrecy agreements in the form then currently used by the Lessee. However, nothing contained in this Section 8.2 or in any other provision of this Agreement shall be construed to entitle the County, the Trustee or the Insurer to any information or inspection involving the confidential know-how of the Lessee.

SECTION 8.3. Lessee to Maintain its Existence, Conditions Under which Exceptions Permitted.

SECTION 8.4. Qualification in South Carolina. The Lessee warrants that it is, and throughout the Lease Term it will continue to be duly qualified to do business in South Carolina.

SECTION 8.5. Release of Certain Land. In addition to the rights granted by Section 11.3 hereof, the parties hereto reserve the right at any time and from time to time to amend this Agreement for the purpose of effecting the release of and removal from this Agreement and the leasehold estate created hereby of (i) any unimproved part of the Leased Land (on which neither the Building nor any Leased Equipment is situated, but upon which transportation or utility facilities may be situated) on which the County then proposes to construct, or cause to be constructed, improvements for lease to the Lessee or any subsidiary or affiliated corporation thereof under another and different lease agreement or (ii) any part (or interest in such part) of the Leased Land with respect to which the County proposes to grant an easement or convey fee title to a railroad, public utility or public body in order that railroad, utility services or roads may be provided for the Project; provided, that if at the time any such amendment is made any of the Bonds are outstanding and unpaid there shall be deposited with the Trustee the following:

(a) A copy of the said amendment as executed.

(b) A resolution of the County Board (i) stating that the County is not in default under any of the provisions of the Indenture and the Lessee is not to the knowledge of the County in default under any of the provisions of this Agreement, (ii) giving an adequate legal description of that portion (together with the interest in such portion) of the Leased Land to be released, (iii) stating the purpose for which the County desires the release, (iv) stating that the said improvements which will be so constructed will be such as will promote the continued industrial development of South Carolina, and (v) requesting such release.

(c) A resolution of the board of directors of the Lessee approving such amendment and a certificate of the president, any vice president or treasurer of the Lessee stating that the Lessee is not in default under any of the provisions of this Agreement.

(d) A copy of any agreement wherein the County agrees to construct, or cause to be constructed, improvements on the portion of the Leased Land so requested to be released and to lease the same, or a copy of the instrument granting the easement or conveying the title to a railroad, public utility or public body.

(e) A certificate of an Independent Engineer who is acceptable to the Trustee, dated not more than sixty days prior to the date of the release and stating that in the opinion of the person signing such certificate, (i) the portion of the Leased Land so proposed to be released is necessary or desirable in order to obtain railroad, utility services or roads to benefit the Project or is not otherwise needed for the operation of the Project for the purposes hereinabove stated and (ii) the release so proposed to be made will not impair the usefulness



of the Project as a manufacturing plant and will not destroy the means of ingress thereto and egress therefrom.

(f) A release price, to be deposited in the Bond Fund, of \$ \_\_\_\_\_ per acre.

And, provided further, if such release relates to Leased Land on which transportation or utility facilities are located, the County shall retain an easement to use such transportation or utility facilities to the extent necessary for the efficient operation of the Project as a manufacturing plant.

If all of the conditions of this Section 8.5 are met, the Trustee shall be authorized to release any such property from the lien of the Indenture.

No release effected under the provisions of this Section shall entitle the Lessee to any abatement or diminution of the rents payable under Section 5.3 hereof.

SECTION 8.6. Granting of Easements. If no event of default under this Agreement shall have happened and be continuing, the Lessee may at any time or times grant easements, licenses, rights of way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property included in the Project, free from the lien of the Indenture, or the Lessee may release existing easements, licenses, rights of way and other rights or privileges with or without consideration, and the County agrees that it shall execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right of way or other right or privilege upon receipt of: (i) a copy of the instrument of grant or release, (ii) a written application signed by the president or a vice president or the treasurer of the Lessee requesting such instrument, and (iii) a certificate executed by the president or a vice president or the treasurer of the Lessee stating (1) that such grant or release is not detrimental to the proper conduct of the business of the Lessee, and (2) that

such grant or release will not impair the effective use or interfere with the operation of the Project and will not weaken, diminish or impair the security intended to be given by or under the Indenture. No grant or release effected under the provisions of this Section shall entitle the Lessee to any abatement or diminution of the rents payable under Section 5.3 hereof.

SECTION 8.7. Indemnification Covenants. (a) Lessee shall and agrees to indemnify and save the County and the Trustee harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Project during the Lease Term, and, Lessee further, shall indemnify and save the County and the Trustee harmless against and from all claims arising during the Lease Term from (i) any condition of the Project, (ii) any breach or default on the part of Lessee in the performance of any of its obligations under this Agreement, (iii) any act of negligence of Lessee or of any of its agents, contractors, servants, employees or licensees, or (iv) any act of negligence of any assignee or sublessee of Lessee, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of Lessee. Lessee shall indemnify and save the County and the Trustee harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon, and upon notice from the County, or the Trustee, Lessee shall defend them or either of them in any such action or proceeding.

(b) Notwithstanding the fact that it is the intention of the parties that the County shall not incur pecuniary liability by reason of the terms of this Agreement, or the undertakings required of the County hereunder, by reason of the issuance of the Bonds, by reason of the execution of the Indenture, by reason of the performance of any act requested



of it by the Lessee, or by reason of the County's ownership of the Project or the operation of the Project by the Lessee, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County should incur any such pecuniary liability, then in such event the Lessee shall indemnify and hold harmless the County against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice from the County, the Lessee shall defend the County in any such action or proceeding.

SECTION 8.9. Financial Statements of Guarantor. In and by the Lease Guaranty Agreement, the Guarantor agrees to furnish the County such information respecting the business affairs, operation and financial condition of the Guarantor and its consolidated subsidiaries as may be reasonably requested; and without any request to furnish to the Trustee, and upon request, to the holder of any Bond (a) as soon as available, and in any event at the time the same are made available to the stockholders of the Guarantor, copies of all quarterly and other interim financial statements as the Guarantor shall furnish to its stockholders, and (b) as soon as available, and in any event within one hundred fifty (150) days after closing of each fiscal year of the Guarantor, a copy of the annual audit report (including balance sheets, profit and loss, and surplus statements) of the Guarantor and its consolidated subsidiaries for such fiscal year, all as prepared and certified by independent public accountants of recognized standing; provided, however, that if the annual report of Guarantor to its stockholders shall contain financial statements of



substantially similar detail and similarly prepared and certified, copies of such annual report may be delivered in lieu of the copies of the annual reports referred to herein.

substantially similar detail and similarly prepared and certified, copies of such annual report may be delivered in lieu of the copies of the annual reports referred to herein.

ARTICLE IX

ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING; REDEMPTION;  
RENT PAYMENT AND ABATEMENT

SECTION 8.1. Assignment and Subleasing. This Agreement may be assigned, and the Project may be subleased as a whole or in part, by the Lessee without the necessity of obtaining the consent of either the County or the Trustee, subject, however, to each of the following conditions:

(a) Insurer shall have consented in writing to such assignment or sub-lease.

(b) No assignment (other than pursuant to Section 8.3 hereof) or subleasing shall relieve the Lessee from primary liability for any of its obligations hereunder, and in the event of any such assignment or subleasing, the Lessee shall continue to remain primarily liable for payment of the rents specified in Section 5.3 hereof and for the payment, performance and observance of the other obligations and agreements on its part herein provided to be performed and observed by it.

(c) The assignee or sublessee shall assume in writing the obligations of the Lessee hereunder to the extent of the interest assigned or subleased.

(d) The Lessee shall, within thirty days after the delivery thereof, furnish or cause to be furnished to the County and to the Trustee a true and complete copy of each such assignment or sublease, as the case may be.

SECTION 9.2. Mortgage of Property by County. The County will mortgage the Project by the Indenture, and assign its interest in and pledge the Lease Rentals pursuant to the Indenture, to the Trustee as security for payment of the principal of, premium, if any, and interest on the Bonds, but each such mortgage, assignment or pledge shall be subject and subordinate to this Agreement.



SECTION 9.3. Restrictions on Sale of Project by County.

The County agrees that, except as set forth in Section 9.2 hereof or other provisions of this Agreement or the Indenture, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project during the Lease Term.

SECTION 9.4. Redemption of Bonds. The County at the request at any time of the Lessee and, if the same are then subject to redemption, shall forthwith take all steps that may be necessary under the applicable redemption provisions of the Indenture to effect redemption of all or part of the then outstanding Bonds, as may be specified by the Lessee, on the earliest redemption date on which such redemption may be made under such applicable provisions.

SECTION 9.5. Prepayment of Rents. There is expressly reserved to the Lessee the right, and the Lessee is authorized and permitted, at any time it may choose, to prepay all or any part of the rents payable under Section 5. hereof, and the County agrees that the Trustee may accept such prepayment of rents when the same are tendered by the Lessee. All rents so prepaid shall be credited on the rental payments due by reason of the provisions of Section 5.3 hereof.

SECTION 9.6. Lessee Entitled to Certain Rent Abatements If Bonds Paid Prior to Maturity. If at any time the aggregate moneys in the Bond Fund shall be sufficient to retire in accordance with the provisions of the Indenture all of the Bonds at the time outstanding, and to pay all fees and charges of the Trustee and any paying agents on the Bonds due or to become due through the date on which the last of the Bonds is retired, under circumstances not resulting in termination of the Lease Term, and if the Lessee is not at the time otherwise in default hereunder, the Lessee shall be entitled to use and occupy the Project from the date on which such aggregate moneys are in the hands of the Trustee to and including the last maturity of any bonds, with no obligation to make the rental payments

specified in Section 5.3 hereof during that interval (but otherwise on the terms and conditions hereof).

SECTION 9.7. Reference to Bonds Ineffective After Bonds Paid. Upon payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and all fees and charges of the Trustee, all reference in this Agreement to the Bonds and the Trustee shall be ineffective and neither the Trustee nor the holders of any of the Bonds shall thereafter have any rights hereunder, saving and excepting those that shall have theretofore vested. For the purpose of this Agreement the Bonds shall be deemed fully paid:

(a) If there is no default under Section 8.9 and there is on deposit in the Bond Fund a sum sufficient to pay the principal of all the then outstanding Bonds plus the interest due thereon until and at their respective maturities and provision for payment of all Trustee's and paying agents' fees, accrued and to accrue, has been made in a manner satisfactory to the Trustee and such paying agents.

(b) If all of the outstanding Bonds and coupons appertaining thereto shall be deemed to have been paid within the meaning of Section 901 of the Indenture.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

SECTION 10.1. Events of Default Defined. The following shall be "events of default" under this Agreement and the terms "event of default" or "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure of the Lessee to pay the rents required to be paid under Section 5.3 of this Agreement which are applicable to the payment of the principal of, premium, if any, and interest on the Bonds, at the times specified therein after one day's notice by the Trustee or three days after the due date thereof, whichever date first occurs.

(b) Failure by the Lessee to observe and perform any covenant, condition or agreement in this Agreement on the part of the Lessee to be observed or performed, other than as referred to in subsection (a) of this Section, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, shall have been given to the Lessee by the County or the Trustee, (or in the case of any such default, which cannot with due diligence be cured within such 30-day period, if Lessee shall fail to proceed promptly to cure the same and thereafter to prosecute the curing of such default with due diligence.)

(c) The dissolution or liquidation of the Lessee or the Guarantor or the filing by the Lessee or Guarantor of a voluntary petition in bankruptcy, or failure by the Lessee promptly to lift any execution, garnishment or attachment of such consequence as will impair the ability



of the Lessee to carry on its operations at the Project, or the commission by the Lessee or Guarantor of any act of bankruptcy, or adjudication of the Lessee or Guarantor as a bankrupt, or assignment by the Lessee or Guarantor for the benefit of its creditors, or the entry by the Lessee or Guarantor into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Lessee or Guarantor in any proceeding for its reorganization instituted under the provisions of the general bankruptcy act, as amended, or under any similar act in any domestic or foreign jurisdiction which may now be in effect or hereafter enacted. The term "dissolution or liquidation of the Lessee or Guarantor" as used in this subsection, shall not be construed to include the cessation of the corporate existence of the Lessee resulting either from a merger or consolidation of the Lessee into or with another corporation or a dissolution or liquidation of the Lessee following a transfer of all or substantially all of its assets as an entirety, provided, that the conditions permitting such actions contained in Section 8.3 hereof shall have been met.

The provisions of paragraph (b) of this Section are subject to the following limitations: if by reason of force majeure the Lessee is unable in whole or in part to carry out the agreements of the Lessee on its part herein contained (other than the obligations on the part of the Lessee contained in Article V and Sections 6.3, 6.4 and 8.7 hereof, to which this paragraph shall have no application), the Lessee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United

States or of South Carolina or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricane; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Lessee, it being agreed that the settlement of strikes, lockouts, and other industrial disturbances shall be entirely within the discretion of the Lessee, and the Lessee shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is, in the judgment of the Lessee, unfavorable to the Lessee.

SECTION 10.2. Remedies on Default. Whenever any event of default referred to in Section 10.1 hereof shall have happened and be subsisting, the County may take any one or more of the following remedial steps:

(a) The County or the Trustee as provided in the Indenture may, at its option, declare all installments of rent payable under Section 5.3 hereof to be immediately due and payable, whereupon the same shall become immediately due and payable, and which amounts Lessee hereby agrees to pay.

(b) The County, with the prior written consent of the Trustee and the Insurer, may re-enter and take possession of the Project without terminating this Agreement, and sublease the Project for the account of the Lessee, holding the Lessee liable for the difference in rent and other amountys actually paid by such sublessee in such subleasing and the rents and other amounts payable by the Lessee hereunder.



(c) The County, with the prior written consent of the Trustee may terminate the Lease Term, exclude the Lessee from possession of the Project and use its best efforts to lease the Project to another for the account of the Lessee, holding the Lessee liable for all rent and other amounts payable by the Lessee hereunder.

(d) In the event any of the Bonds shall at the time be outstanding and unpaid, the County may have access to and inspect, examine and make copies of the books and records and any and all accounts, similar data and income tax and other tax returns of the Lessee.

(e) The County may take whatever action at law or in equity may appear necessary or desirable to collect the rent and other amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Agreement.

Any amounts collected pursuant to action taken under this Section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Bonds have been fully paid (or provision for payment thereof has been made in accordance with the provisions of the Indenture) and the Lessee is then in good standing with respect to the payment of rent hereunder and shall have paid the County and the Trustee all other sums due and owing hereunder, to the Lessee.

No action taken pursuant to this Section (including repossession of the Project or termination of the Lease Term) shall relieve the Lessee from the Lessee's obligations pursuant to Section 5.3 and Section 10.2(a), all of which shall survive any such action, and the Lessor may taken whatever action at law or in equity as may appear necessary and desirable to collect the rent and other amounts then due and thereafter to become due and/or to enforce the performance and observance of any obligation, agreement or covenant of the Lessee hereunder.

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SECTION 10.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the County is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. Such rights and remedies as are given the County hereunder shall also extend to the Trustee, and the Trustee and the holders of the Bonds shall be deemed third party beneficiaries of all covenants and agreements herein contained.

SECTION 10.4. Agreement to Pay Attorneys' Fees and Expenses. In the event the Lessee should default under any of the provisions of this Agreement and the County or the Trustee should employ attorneys or incur other expenses for the collection of rent or the enforcement of performance or observance of any obligation or agreement on the part of the Lessee herein contained, the Lessee agrees that it will on demand therefor pay to the County or the Trustee the reasonable fees of such attorneys and such other expenses so incurred by the County or the Trustee.

SECTION 10.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived, and shall not be deemed to waive any other breach hereunder.

ARTICLE XI

OPTIONS IN FAVOR OF THE LESSEE

SECTION 11.1. Options to Terminate. The Lessee shall have, and is hereby granted, the following options to terminate the Lease Term:

(a) At any time prior to full payment of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture), the Lessee may terminate the Lease Term (i) by paying to the Trustee an amount which, when added to the amount on deposit in the Bond Fund, will be sufficient to pay, retire and redeem all the outstanding Bonds in accordance with the provisions of the Indenture (including, without limiting the generality of the foregoing, principal, interest to maturity or earliest applicable redemption date, as the case may be, premium, if any, expenses of redemption and Trustee's and paying agents' fees and expenses), and in case of redemption making arrangements satisfactory to the Trustee for the giving of the required notice of redemption, (ii) by paying to the County any and all sums then due to the County under this Agreement, and (iii) by giving the County notice in writing of such termination, and such termination shall forthwith become effective.

(b) At any time after full payment of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and of any and all sums then due to the County under this Agreement, the Lessee may terminate the Lease Term by giving the County notice in writing of such termination and such termination shall forthwith become effective.

SECTION 11.2. Option to Purchase Project Prior to Payment of the Bonds. The Lessee shall have, and is hereby granted, the option to purchase the Project prior to the full



payment of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) if any of the events set forth in the following clauses shall have occurred:

(a) The Building shall have been damaged or destroyed (i) to such extent that it cannot be reasonably restored within a period of six months to the condition thereof immediately preceding such damage or destruction, or (ii) to such extent that the Lessee is thereby prevented from carrying on its normal operations at the Project for a period of six months, or (iii) to such extent that the cost of restoration thereof would exceed by \$            the Net Proceeds of insurance carried thereon pursuant to the requirements of Section 6.4(a) and Section 6.4(b) hereof, plus the deductible amounts for which the Lessee is self-insured with respect to the Project.

(b) Title to, or the temporary use of, all or substantially all the Project, or such part thereof as shall materially interfere, in Lessee's judgment, with the operation of the Project for the purpose for which the Project is designed, shall have been taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority (including such a taking or takings as results in the Lessee being thereby prevented from carrying on its normal operations at the Project for a period of six months).

(c) As a result of any changes in the Constitution of South Carolina or the Constitution of the United States of America or of legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal) entered after the contest



thereof by the Lessee in good faith, this Agreement shall have become void or unenforceable or impossible in accordance with the intent and purposes of the parties as expressed in this Agreement, or unreasonable burdens or excessive liabilities shall have been imposed on the County or the Lessee in respect to the Project including without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the date of this Agreement.

To exercise such option, the Lessee shall, within ninety days following the event authorizing the exercise of such option, give written notice to the County, and to the Trustee if any of the Bonds shall then be unpaid, and shall specify therein the date of closing such purchase, which date shall be not less than forty-five nor more than ninety days from the date such notice is mailed, and in case of a redemption of the Bonds in accordance with the provisions of the Indenture, shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. The purchase price payable by the Lessee in the event of its exercise of the option granted in this Section shall be the sum of the following:

(1) An amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to retire and redeem all the then outstanding Bonds on the earliest possible date after notice as provided in the Indenture, whether or not such date is an interest payment date, including without limitation, principal, all interest to accrue to said redemption date and redemption expense, plus

(2) An amount of money equal to the Trustee's and paying agent's fees and expenses under the Indenture accrued and to accrue until such final payment and redemption of the Bonds, plus

(3) The sum of one dollar, and any and all other sums then due to the County under this Agreement.

In the event of the exercise of the option granted in this Section any Net Proceeds of insurance or condemnation shall be paid to the Lessee simultaneously with the conveyance prescribed by Section 11.4 hereof.

SECTION 11.3. Option to Purchase Unimproved Land. If no event of default under this Agreement shall have happened and then be continuing, the Lessee shall have, and is hereby granted the option to purchase any part of the Leased Land on which neither the Building nor any Leased Equipment is located, but upon which transportation or utility facilities may be located, at any time and from time to time at and for the purchase price of \$\_\_\_\_\_ per acre, provided that it furnishes the County with the following;

(a) A notice in writing containing (i) an adequate legal description of that portion of the Leased Land with respect to which such option is to be exercised, (ii) a statement that the Lessee intends to exercise its option to purchase such portion of the Leased Land on a date stated, which shall not be less than forty-five nor more than ninety days from the date of such notice and (iii) a statement that the use to which the Lessee intends to devote such portion of the Leased Land will promote the continued industrial development of South Carolina.

(b) A certificate of an Independent Engineer who is acceptable to the Trustee, dated not more than ninety days prior to the date of the purchase and stating that, in the opinion of the person signing such certificate, (i) the portion of the Leased Land with respect to which the option is exercised is not needed for the operation of the Project for the pur-



poses hereinabove stated, and (ii) the purchase will not impair the usefulness of the Project as a manufacturing plant and will not destroy the means of ingress thereto and egress therefrom.

(c) An amount of money equal to the purchase price computed as provided this Section

The County agrees that upon receipt of the notice, certificate and money required in this Section to be furnished to it by the Lessee, the County will promptly deliver such money to the Trustee for deposit in the Bond Fund, and secure from the Trustee a release from the lien of the Indenture of such portion of the Leased Land with respect to which the Lessee shall have exercised the option granted to it in this Section. In the event the Lessee shall exercise the option granted to it under this Section, the Lessee shall not be entitled to any abatement or diminution of the rents payable under Section 5.3, and if such option relates to Leased Land on which transportation or utility facilities are located, the County shall retain an easement to use such transportation or utility facilities to the extent necessary for the efficient operation of the Project.

SECTION 11.4. Conveyance on Exercise of Option to Purchase. At the closing of any purchase pursuant to any option to purchase granted herein, the County shall upon receipt of the purchase price deliver to the Lessee the following:

(a) If necessary, a release from the Trustee of the property with respect to which the option was exercised from the lien of the Indenture.

(b) Documents conveying to the Lessee good and marketable title to the property being purchased as such property then exists, subject to the following:  
(i) those liens and encumbrances (if any) to which title to said property was subject when conveyed to the County; (ii) those liens and encumbrances created by



the Lessee or to the creation or suffering of which the Lessee consented; (iii) those liens and encumbrances resulting from the failure of the Lessee to perform or observe any of the agreements on its part contained in this Agreement; (iv) Permitted Encumbrances other than the Indenture and this Agreement; and (v) if the option is exercised pursuant to the provisions of Section 11.2(b) hereof, the rights and title of the condemning authority.

SECTION 11.5. Relative Position of Options and

Indenture. The options respectively granted to the Lessee in this Article except under Section 11.3 hereof shall be and remain prior and superior to the Indenture and may be exercised whether or not the Lessee is in default hereunder, provided that no such default will result in non-fulfillment of any condition to the right of the Lessee to obtain a conveyance of the Project by making the payments required hereunder.

ARTICLE XII

ADDITIONAL OBLIGATIONS OF LESSEE AND COUNTY

SECTION 12.1.    Obligation to Purchase Project.    The Lessee hereby agrees to purchase, and the County hereby agrees to sell, the Project for one dollar, and any and all sums then due to the County under this Agreement, at the expiration or sooner termination of the Lease Term following full payment of the Bonds, or provision for payment thereof having been made, in accordance with the provisions of the Indenture. At the closing of the foregoing purchase, the County shall deliver to the Lessee the documents referred to in Section 11.4 hereof. The right to purchase granted in this Section shall be and remain prior and superior to the Indenture and may be exercised whether or not the Lessee is in default hereunder provided that no such default will result in nonfulfillment of any condition to this right.

ARTICLE XIII

MISCELLANEOUS

SECTION 13.1. Quiet Enjoyment. The County agrees so long as the Lessee shall fully and punctually pay all of the rents and other amounts provided to be paid hereunder by the Lessee, and shall fully and punctually perform all of its other covenants and agreements hereunder, that the Lessee shall peaceably and quietly have, hold and enjoy the Project during the Lease Term.

SECTION 13.2. Surrender of Project. Except as otherwise provided in this Agreement at the expiration or sooner termination of the Lease Term, the Lessee agrees to surrender possession of the Project peaceably and promptly to the County in as good condition as at the commencement of the Lease Term, ordinary wear, tear and obsolescence only excepted.

SECTION 13.3. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, or given when dispatched by telegram addressed as follows: if to the County, to the

; if to the Lessee, at

, Attention: ;

if to the Trustee, at

Attention: Corporate Trust Officer; if to the Guarantor,  
at

, Attention:

. The County, the Lessee, the Guarantor and the Trustee may, by notice given to all parties to this Agreement and the Indenture, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

SECTION 13.4. Recording and Filing.

(a) This Agreement as originally executed shall be recorded prior to the recordation of the Indenture. It shall be recorded and indexed as a miscellaneous conveyance and as a security agreement in



the appropriate office of the County in which the Project is located or in such other office as may at the time be provided by law as the proper place for recordation thereof.

(b) The deed conveying the Leased Land to the County, this Agreement and the Indenture may be recorded prior to the delivery of the Bonds. If subsequent to such recording the Bonds shall not be delivered on or before the date prescribed in Section 4.2 hereof, or such later date as the Lessee may agree upon in writing, then the said deed, this Agreement and the Indenture shall be of no force and effect and in such event the County and the Lessee do hereby mutually release and discharge each other from any and all claims of any character which either may have against the other by reason of or arising from a failure to deliver the Bonds; and all properties conveyed to the County by the said deed and for the same consideration paid by the County less any

advances made therefor or on behalf of the Lessee. All parties shall execute such further instruments as may be necessary to fully implement the provisions of this subsection (b) of Section 13.4.

SECTION 13.5. Other Instruments.

(a) The Lessee covenants to deliver to the County and the Trustee within 60 days after \_\_\_\_\_, after each \_\_\_\_\_ 1 thereafter until the Completion Date, after the Completion Date and after the close of each fiscal year of the Lessee following the Completion Date, a description of the Project on such \_\_\_\_\_ 1, Completion Date or each last day of a fiscal year, as appropriate, if the Project is not adequately described in the granting clauses of the Indenture as then supplemented, and in the demising clauses of this Agreement as then amended. Such description shall be sufficiently detailed so as to enable counsel to render the opinion referred to in clause (4) of the next succeeding sentence. Within 30 days after delivery of such description the Lessee covenants that it will:

(1) prepare a supplement to the Indenture and an amendment to this Agreement, each containing an adequate and full description of the Project;

(2) deliver the supplement to the Indenture to the Trustee and the County and the supplement to this Agreement to the County for execution;

(3) deliver the fully executed supplement to the Indenture and the fully executed supplement to this Agreement to the Trustee for recording and filing or re-recording or re-filing in all places required by the opinion of counsel referred to in Clause (4) of this subsection (a) of this Section 13.4; and

(4) deliver to the Trustee a written opinion of counsel (who may be counsel for the County or

the Lessee), addressed to the Trustee that the description of the Mortgaged Property (as defined in Article I of the Indenture) contained in the granting clauses of the Indenture, as supplemented, and the description of the Project contained in the demising clauses of this Agreement, as supplemented, are adequate for all purposes thereof and hereof and in the opinion given with respect to the Completion Date, that such descriptions include descriptions of the entire Project; that the Indenture, as supplemented, constitutes a valid first mortgage lien on the interest of the County in the said Mortgaged Property, subject only to Permitted Encumbrances other than the Indenture; that the Indenture, as supplemented, this Agreement, as supplemented and all financing statements, continuation statements, notices and other instruments required by applicable law have been recorded or filed or re-recorded or re-filed in such manner and in such places required by law in order fully to preserve and protect the rights of the holders or owners of the First Series Bonds and the Trustee in the Project (and in the assignment to the Trustee of Lease Rentals payable under this Agreement) as against creditors of, or purchasers for value from, the County or the Lessee.

(b) The Lessee, the County and the Trustee shall execute and deliver all instruments and shall furnish all information and evidence deemed necessary or advisable by such counsel in order to enable him to render the opinion referred to in subsection (a)(4) of this Section 13.5. The Trustee shall file and record and re-record or cause to be filed and recorded and re-recorded all instruments required to be filed and recorded and re-recorded pursuant



to the opinion of such counsel and shall continue or cause to be continued the liens of such instruments for so long as the First Series Bonds shall be outstanding, except as otherwise in this Agreement required.

SECTION 13.6. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the County, the Lessee and their respective successors and assigns, subject, however, to the provisions of Sections 8.3, 9.1, 9.2 and 9.3 hereof.

SECTION 13.7. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 13.8. Amounts Remaining in Bond Fund. It is agreed by the parties hereto that any amounts remaining in the Bond Fund after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and the fees, charges and expenses of the Trustee and paying agents in accordance with the Indenture, shall belong to and be paid to the Lessee by the Trustee as overpayment of rents.

SECTION 13.9. Amendments, Changes and Modifications. This Agreement may not be amended, changed, modified, altered or terminated without in each instance the prior written consent of the Trustee.

SECTION 13.10. Net Lease. This Agreement shall be deemed and construed to be a "net lease", and the Lessee shall pay absolutely net during the Lease Term the rent and all other payments required hereunder, free of any deductions, without abatement, diminution or set-off other than those herein expressly provided.

SECTION 13.11. Execution of Counterparts. This Agreement may be executed in several counterparts, each of which

shall be an original and all of which shall constitute but one and the same instrument.

SECTION 13.12. Law Governing Construction of Agreement.

This Agreement is prepared and entered into with the intention that the laws of the State of South Carolina shall govern its construction.

IN WITNESS WHEREOF, AIKEN COUNTY, SOUTH CAROLINA, has executed this Lease Agreement by causing its name to be hereunto subscribed by the Chairman of its Board of Commissioners and the official seal of said County Board to be impressed hereon and attested by the Clerk of said County Board; and TILBURY ASSOCIATES has executed this Lease Agreement by causing its name to be hereunto subscribed by its \_\_\_\_\_ and its \_\_\_\_\_, all being done as of the day and year first above written.

AIKEN COUNTY, SOUTH CAROLINA

(SEAL)

By \_\_\_\_\_  
Chairman, Board of Commissioners of  
Aiken County

Attest:

\_\_\_\_\_  
Clerk, Board of Commissioners  
of Aiken County

Signed, Sealed and Delivered in the  
Presence of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TILBURY ASSOCIATES

By \_\_\_\_\_

Its \_\_\_\_\_

Attest:

\_\_\_\_\_

Its \_\_\_\_\_

Signed, Sealed and Delivered in  
the Presence of:

\_\_\_\_\_

\_\_\_\_\_



STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

PERSONALLY appeared before me \_\_\_\_\_  
who being duly sworn, deposes and says that (s)he saw the cor-  
porate seal of Aiken County, South Carolina, affixed  
to the foregoing Lease Agreement, and that (s)he also saw  
\_\_\_\_\_ as Chairman and \_\_\_\_\_  
as Clerk of the Board of Commissioners of Aiken County, sign and  
attest the same and that (s)he with \_\_\_\_\_  
witnessed the execution and delivery thereof as the act and deed  
of the said Aiken County, South Carolina.

SWORN to before me this

\_\_\_\_\_ day of October A.D., 1973.

\_\_\_\_\_(LS)  
NOTARY PUBLIC FOR SOUTH CAROLINA.  
My Commission expires:\_\_\_\_\_.

STATE OF  
COUNTY OF

PERSONALLY appeared before me \_\_\_\_\_  
who being duly sworn says that (s)he saw \_\_\_\_\_  
as \_\_\_\_\_ and \_\_\_\_\_ as \_\_\_\_\_  
of Tilbury Associates sign and attest the same, and that (s)he  
with \_\_\_\_\_ witnessed the execution and delivery  
thereof as the act and deed of the said Tilbury Associates.

SWORN to before me this \_\_\_\_\_  
\_\_\_\_\_ day of \_\_\_\_\_, A. D., 1973.

\_\_\_\_\_(LS)  
NOTARY PUBLIC FOR STATE OF  
My Commission expires:\_\_\_\_\_.

EXHIBIT "A"

(Attached to Lease Agreement between Aiken County, South  
Carolina, and Tilbury Associates, dated as of 1, 1973.)

DESCRIPTION OF LEASED LAND



ASSIGNMENT OF LEASE AGREEMENT  
AND GUARANTY AGREEMENT

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

KNOW ALL MEN BY THESE PRESENTS, that Aiken County, a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its Board of Commissioners in consideration of the sum of One Dollar (\$1.00) to it in hand paid at and before the sealing of these presents, the receipt of which is hereby acknowledged, has assigned, transferred and set over unto Farmer's and Merchant's Bank, Aiken, South Carolina, as Trustee under that certain Trust Indenture dated as of June 1, 1973, between Aiken County and said Farmer's and Merchant's Bank, as Trustee, and its successors in trust:

(a) All of the right, title and interest of said Aiken County in and to the foregoing Lease Agreement dated as of June 1, 1973, between said Aiken County, as Lessor, and Tilbury Associates, a joint venture, as Lessee.

(b) All of the right, title and interest of said Aiken County in and to the foregoing Lease Guaranty Agreement dated as of June 1, 1973, between Tilbury Fabrics, Inc., and said Aiken County, South Carolina.

This Assignment is made pursuant to and subject to all the terms and conditions of said Trust Indenture dated as of June 1, 1973, the terms of which are incorporated by this reference as fully as if the same were set forth at length herein, the Trust Indenture being intended to be duly recorded immediately.

IN WITNESS WHEREOF, AIKEN County, South Carolina, has executed this Assignment by causing its name to be hereunto

Assignment - 1

1966

subscribed by the Chairman of the Board of Commissioners of  
Aiken County and the official seal of said Board of Commissioners  
to be impressed hereon and attested by the Clerk of the said  
Board of Commissioners all being done as of the day of June ,  
1973.

AIKEN COUNTY, SOUTH CAROLINA

(SEAL)

BY \_\_\_\_\_  
Chairman, Board of Commissioners  
of Aiken County

Attest:

\_\_\_\_\_  
Clerk, Board of Commissioners of  
Aiken County

Signed, Sealed and Delivered  
In the Presence of:

\_\_\_\_\_  
\_\_\_\_\_

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

PERSONALLY appeared before me \_\_\_\_\_ who  
being duly sworn, says that (s)he saw the corporate seal of  
Aiken County, South Carolina, affixed to the foregoing  
Assignment of Lease Agreement and Lease Guaranty Agreement,  
and that (s)he also saw \_\_\_\_\_, as Chairman, and  
\_\_\_\_\_, as Clerk of the Board of Commissioners of  
Aiken County sign and attest the same, and that (s)he with  
\_\_\_\_\_ witnessed the execution and delivery  
thereof as the act and deed of the said Aiken County,  
South Carolina.

\_\_\_\_\_

SWORN to before me this

\_\_\_\_ day of October , A. D., 197 .

\_\_\_\_\_  
(LS)

NOTARY PUBLIC FOR SOUTH CAROLINA.

My Commission expires: \_\_\_\_\_.

1968



GUARANTY AGREEMENT

By and Between

TILBURY FABRICS, INC.

And

AIKEN COUNTY, SOUTH CAROLINA

And

FARMERS & MERCHANTS BANK, as Trustee

Dated as of June 1, 1973

GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT made and entered into as of the first day of June, 1973, by and between Aiken County (hereinafter referred to as the "County"), acting by and through its Board of Commissioners of Aiken County, the governing body of the County (hereinafter referred to as the "County Board") and Tilbury Fabrics, Inc., a New York corporation (hereinafter referred to as the "Guarantor") and Farmers & Merchants Bank, Aiken, South Carolina, as Trustee, a bank organized and existing under the laws of South Carolina together with any successor trustee, at the time serving as such under the Trust Indenture referred to below ("Trustee"):

WITNESSETH:

WHEREAS, arrangements have been made for sale by the County, of \$600,000 principal amount of its First Mortgage Internal Revenue Bonds, Series 1973, (Tilbury Associates, a Joint Venture - Lessee) (hereinafter referred to as the "BONDS"); and

WHEREAS, the proceeds derived from the issuance of the Bonds are to be applied to the acquisition and construction of certain warehousing and distribution facilities ("Project"), located in the County for lease to Tilbury Associates, a joint venture ("Lessee") pursuant to a Lease Agreement dated as of the date hereof ("Lease"); and

WHEREAS, the Guarantor desires that the County issue the Bonds and apply the proceeds for the purposes described above and is willing to enter into this Guaranty Agreement in order to provide an inducement to the purchase of the Bonds and interest coupons appertaining thereto by all who shall at any time become holders thereof.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the Guarantor does hereby covenant and agree with the County and the Trustee as follows:

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## ARTICLE I

### REPRESENTATIONS AND WARRANTIES OF GUARANTORY

SECTION 1.1. Guarantor does hereby represent and warrant that it is a corporation duly incorporated in the State of its incorporation and is in good standing under the laws of the State of South Carolina, has power to enter into and perform this Guaranty Agreement, has duly authorized the execution and delivery of this Guaranty Agreement by proper corporate action and that such execution and delivery does not contravene or constitute a default under any agreement, instrument or indenture or any provision of its certificate of incorporation or any other requirement of law.

## ARTICLE II

### COVENANT AND AGREEMENTS

SECTION 2.1. The Guarantor hereby unconditionally guarantees to the County and the Trustee the full and prompt performance and observance of each and all of the covenants and agreements required to be performed and observed by the Lessee under the terms of the Lease. Each and every default under the Lease shall give rise to a separate cause of action hereunder as each cause of action arises.

SECTION 2.2. The obligations of the Guarantor under this Guaranty Agreement shall be absolute and unconditional and shall remain in full force and effect until the entire principal of, premium, if any, and interest on the Bonds shall have been paid, or duly provided for, and such obligations shall not be affected, modified or impaired upon the happening from time to time of any event, including without limitation any of the following, whether or not with notice to, or the consent of the Guarantor:

(a) the waiver, compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of the County contained in the Indenture, or of the payment, performance or observance thereof;

(b) the failure to give notice to the Guarantor

1974



of the occurrence of an event of default under the terms and provisions of this Guaranty Agreement.

(c) the transfer, assignment or mortgaging or the purported transfer, assignment or mortgaging of all or any part of the interest of the County in the Project referred to in the Lease or any failure of title with respect to the County's interest in the Project or the invalidity, unenforceability or termination of the Lease;

(d) the waiver, compromise, settlement, release or termination of any of the obligations, covenants or agreements of the Lessee under the Lease or of any other lessee under the Lease, or of the payment, performance or observance thereof;

(e) the extension of the time for payment of any principal of, premium, if any, or interest on any Bond owing or payable on such Bond or of the time for performance of any obligations, covenants, or agreements under or arising out of the Lease or the Indenture or the extension or the renewal of either thereof;

(f) the modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Lease or the Indenture;

(g) the taking or the omission of any of the actions referred to in the Lease or the Indenture or of any actions under this Guaranty Agreement;

(h) any failure, omission, delay or lack on the part of the County or Trustee to enforce, assert or exercise any right, power or remedy conferred on the County or the Trustee in this Guaranty Agreement or the Lease or the Indenture, or any other act or acts on the part of the County, the Trustee or any of the holders from time to time of the Bonds or of the interest coupons appertaining thereto;

(i) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization or arrangement under bankruptcy or similar laws, composition with creditors or readjustment of, or other similar procedures affecting the Guarantor, or the Lessee, or the County or any of the assets of any of them, or any allegation or contest of the validity of this Guaranty Agreement, or the Lease, or the disaffirmance of the Lease of the Guaranty agreement in any such proceeding;

(j) to the extent permitted by law, any event or action that would, in the absence of this clause, result in the release or discharge by operation of law of the Guarantor from the performance or observance of any obligation, covenant or agreement contained in this Guaranty Agreement;

(k) the invalidity or unenforceability of the obligations of the Guarantor under this Guaranty Agreement, the absence of any action to enforce such obligations of the Guarantor, any waiver or consent by the Guarantor with respect to any of the provisions hereof or any other circumstances which might otherwise constitute a discharge or defense by the Guarantor, including, without limitation, any failure or delay in the enforcement of the obligations of the Guarantor with respect to this Guaranty Agreement or of notice thereof; or

(l) the default or failure of the Guarantor fully to perform any of its obligations set forth in this Guaranty Agreement.

SECTION 2.3. No set-off counterclaim, reduction, or diminution of an obligation, or any defense of any kind or nature which the Guarantor has or may have against the County or the Trustee shall be available hereunder to the Guarantor against the Trustee.

SECTION 2.4. In the event of a default by the Lessee under the Lease, the Trustee shall be obligated to proceed to enforce its rights hereunder and the Trustee shall have the right to proceed first and directly against the Guarantor under this Guaranty Agreement without proceeding against or exhausting any other remedies which it may have and without resorting to any other security held by the County or the Trustee. All moneys recovered pursuant to this Guaranty Agreement shall be applied in accordance with the Indenture.

SECTION 2.5. The Guarantor hereby expressly waives notice from the Trustee or the holders from time to time of any of the Bonds or of the interest coupons appertaining thereto of their acceptance and reliance on this Guaranty Agreement. The Guarantor agrees to pay all costs, expenses and fees, including all reasonable attorneys' fees, which may be incurred by the Trustee or the County in enforcing or attempting to enforce this Guaranty Agreement or protecting the rights of the Trustee or the holders of Bonds or coupons appertaining thereto following any default on the part of the Guarantor hereunder, whether the same shall be enforced by suit or otherwise.

SECTION 2.6. The Guarantor will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all its assets and will not consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it, provided, that the Guarantor may, without violating the agreement contained in this Section, consolidate with or merge into another corporation or partnership, or permit one or more other corporations to consolidate with or merge into another



corporation or partnership, or permit one or more other corporations to consolidate with or merge into it, or sell or otherwise transfer to another corporation all or substantially all of its assets as an entirety and thereafter dissolve, provided the surviving, resulting or transferee corporation, as the case may be, assumes and agrees in writing to pay and perform all of the obligations of the Guarantor in an instrument satisfactory in form and content to the Trustee.

SECTION 2.7. This Guaranty Agreement shall not be deemed to create any right in, or to be in whole or in part for the benefit of any person other than the County, the Trustee, the Guarantor, the holders from time to time of the Bonds and of the coupons appertaining thereto, and their successors and assigns. This Guaranty Agreement may be enforced by or on behalf of the holders of the Bonds or such coupons only by the Trustee in accordance with the provisions of the Indenture.

SECTION 2.8. The Guarantor agrees to furnish the County such information respecting the business affairs, operation and financial condition of the Guarantor and its consolidated subsidiaries as may be reasonably requested; and without any request to furnish to the Trustee, and upon request, to the holder of any Bond (a) as soon as available, and in any event at the time the same are made available to the stockholders of the Guarantor, copies of any quarterly and other interim financial statements as the Guarantor shall furnish to its stockholders, and (b) as soon as available, and in any event within \_\_\_\_\_ days after closing of each fiscal year of the Guarantor, a copy of the annual audit report (including balance sheets, profit and loss, and surplus statements) of the Guarantor and its consolidated subsidiaries for such fiscal year, all as prepared and certified by independent public accountants of recognized standing; provided, however, that if the annual report of Guarantor to its stockholders shall contain financial statements of substantially similar detail and similarly prepared and certified, copies of such annual report may be delivered in lieu of the copies of the annual reports referred to herein.

ARTICLE III

MISCELLANEOUS

SECTION 3.1. The obligations of the Guarantor hereunder shall arise absolutely and unconditionally upon the issue, sale and delivery of any Bonds by the County. The execution and delivery of this Guaranty Agreement shall not impair or diminish in any respect the obligations of the Lessee under the Lease.

SECTION 3.2. No remedy herein conferred upon or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Guaranty Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default, omission or failure of performance hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Guaranty Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required herein or in the Indenture. In the event any provision contained in this Guaranty Agreement should be breached by any party and thereafter duly waived by any other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver, amendment, release or modification of this Guaranty Agreement shall be established by conduct, custom or course of dealing, but solely by an instrument in writing duly executed by the parties to this Guaranty Agreement and only in accordance with the provisions of the Indenture.

SECTION 3.3. This Guaranty Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, between the parties

with respect to the subject matter hereof and may be executed simultaneously in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

SECTION 3.4. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Guaranty Agreement contained, shall not affect the validity or enforceability of the remaining portions of the Guaranty Agreement, or any part thereof.

SECTION 3.5. For such time as any of the Bonds shall be outstanding, the Guarantor irrevocably designates the Secretary of State of South Carolina, Columbia, South Carolina, as the agent to accept and acknowledge in its behalf service of any and all process in any such suit, action or other legal proceeding brought in any such court, and agrees and consents that in any such suit, action or other legal proceeding service upon the Guarantor, whether or not the Guarantor shall then be doing, or any time shall have done, business within the State of South Carolina, and that any such service of process shall be of the same force and validity as if service were made upon it according to the laws governing the validity and the requirements, of such service in such state.

SECTION 3.6. This Guaranty Agreement is prepared and entered into with the intention that the law of South Carolina shall govern its construction.



IN WITNESS WHEREOF, the Guarantor has caused this Guaranty Agreement to be executed in its name and behalf and its corporate seal to be affixed hereto and attested by its duly authorized officers as of the date first above written.

TILBURY FABRICS, INC.

(SEAL)

By \_\_\_\_\_

Attest:

\_\_\_\_\_

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 197\_, by \_\_\_\_\_, as Trustee

By \_\_\_\_\_  
Its

(SEAL)

Attest:

\_\_\_\_\_

Accepted this \_\_\_\_\_ day of \_\_\_\_\_ 1973

By \_\_\_\_\_ Aiken \_\_\_\_\_ County, South Carolina

(SEAL)

By \_\_\_\_\_  
Chairman, Board of Commissioners  
of Aiken County

Attest:

\_\_\_\_\_  
Clerk, Board of Commissioners  
of Aiken County

TRUST INDENTURE

THIS TRUST INDENTURE made and entered into as of the first day of June, 1973, by and between AIKEN COUNTY, a body politic and corporate and a political subdivision of the State of South Carolina (hereinafter sometimes referred to as the "County"), as party of the first part, and FARMERS & MERCHANTS BANK, Aiken, South Carolina, a banking association duly organized, existing and authorized to accept and execute trusts of the character herein set out, under and by virtue of the laws of the State of South Carolina, as Trustee, party of the second part;

WITNESSETH:

WHEREAS, the County is authorized and empowered by the provisions of Act No. 103 of the Acts of the General Assembly of the State of South Carolina, for the year 1967, as amended, (the "Act") to acquire, own, lease, dispose of, and mortgage the properties hereinafter described in order that the industrial development of South Carolina will be promoted and trade developed by inducing manufacturing enterprises to locate and remain in South Carolina and thus utilize and employ manpower and other resources of South Carolina; and

WHEREAS, the County is further authorized by the Act to issue revenue bonds payable solely from the lease rentals, revenues and receipts from any such project and secured by a pledge of said lease rentals, revenues and receipts and by a mortgage on the land, buildings, improvements, machinery and equipment so acquired; and

WHEREAS, the County has made the necessary arrangements with Tilbury Associates, a joint venture organized and existing under the laws of the State of New York (hereinafter sometimes

referred to as the "Lessee") for the acquisition of new warehousing and distribution facilities, and necessary land and buildings in connection therewith (hereinafter sometimes referred to as the "Project") which will be of the character and accomplish the purpose provided by the Act, and the County has further entered into a Lease Agreement with the Lessee specifying the terms and conditions of the acquisition of the Project and the leasing of the same to the Lessee, and the payment of the Bonds hereinafter referred to and the performance of obligations of the Lessee under the Lease Agreement have been unconditionally guaranteed by Tilbury Fabrics, Inc., a New York corporation; and

WHEREAS, the execution and delivery of this Trust Indenture (hereinafter sometimes referred to as the "Indenture") have been authorized by Resolutions duly adopted by the Board of Commissioners of Aiken County (hereinafter sometimes referred to as the "County Board"), and the County in accordance with the requirements of Section 14 of the Act has submitted its Petition to the State Budget and Control Board of South Carolina, including a general summary of the terms and conditions of the Indenture, and the State Budget and Control Board of South Carolina has duly approved the Project in accordance with the provisions of the Act and thereby authorized the County Board to proceed with the acquisition and financing of the Project. Notice of the approval was duly published in a newspaper having general circulation in the County and notwithstanding more than twenty days have elapsed from the date of the publication of such notice, no challenge was made to the validity of such approval as provided in the Act; and



WHEREAS, it has been determined that the estimated amount necessary to finance the cost of the Project will require the issuance, sale and delivery of Bonds designated as AIVEN COUNTY FIRST MORTGAGE INDUSTRIAL REVENUE BONDS, SERIES 1974 (TILBURY ASSOCIATES, A JOINT VENTURE - LESSEE) in the aggregate principal amount of \$600,000 as hereinafter provided; and

WHEREAS, the issuance of such Bonds under the Act has been in all respects duly and validly authorized by resolutions duly passed and approved by the County Board; and

WHEREAS, the \$600,000 aggregate principal amount of Bonds to be issued, the interest coupons to be attached thereto, and the Trustee's Certificate of Authentication to be endorsed on such Bonds, are all to be in substantially the form hereto attached as Exhibit Exhibit B, with necessary and appropriate variations, omissions and insertions as permitted or required by this Indenture; and

WHEREAS, all things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of the County according to the import thereof, and to constitute this Indenture a valid lien on the properties mortgaged and a valid pledge of the lease rentals, revenues and receipts herein made to the payment of the principal of, premium, if any, and interest on the Bonds, have been done and performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THIS TRUST INDENTURE WITNESSETH:

That the County in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the holders and owners thereof, and of the sum of one dollar, lawful money of the United States of America, to it duly paid by the Trustee at or before the execution and delivery of these presents, and for other good and valuable considerations, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the Bonds according to their tenor and effect and the performance and observance by the County of all the covenants expressed or implied herein and in the Bonds, does hereby, subject to the terms and provisions of the Lease Agreement, grant, bargain, sell, convey, mortgage, pledge and assign unto Farmers & Merchants Bank , as Trustee, and unto its successors in trust, and to its assigns forever, for the securing of the performance of the obligations of the County hereinafter set forth, the following:

I

The real property situated in Aiken County, State of South Carolina, described in Exhibit A attached hereto, with all buildings, additions, improvements and fixtures now or hereafter located thereon or therein and with the tenements, hereditaments, servitudes, appurtenances, rights, privileges and immunities thereunto belonging or appertaining which may from time to time be owned by the County.

II

All right, title and interest of the County in and to the Lease Agreement, dated as of June 1, 1973, between the County and Tilbury Associates and all Lease Rentals, (as hereinafter in this Indenture defined) received or to be received under said Lease Agreement.

III

All right, title and interest of the County in and to the Guaranty Agreement, dated as of June 1, 1973, among the County, the Lessee and the Trustee, and all Lease Rentals and other payments received or to be received under the said Guaranty Agreement.

IV

All Lease Rentals arising out of or in connection with the ownership of the Project.

V

Any and all other property from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder by the County or by anyone on its behalf or with its written consent to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

v



TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successors in said trust and to them and their assigns forever.

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all holders and owners of the Bonds and interest coupons thereto appertaining issued under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Bonds or interest coupons appertaining over any of the others of the Bonds or interest coupons;

PROVIDED, HOWEVER, that if the County shall pay or cause to be paid to the holders and owners of the Bonds and bearers of interest coupons, the principal, interest and premium, if any, to become due thereon at the times and in the manner stipulated therein and herein and if the County shall keep, perform and observe all and singular the covenants and promises in the Bonds and in this Indenture expressed as to be kept, performed and observed by it or on its part, or if the issuance of the Bonds is not made within the time provided in Section 4.2 of the Lease Agreement, then these presents and the estate and rights hereby granted shall, at the option of the County, cease, determine and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture and execute and deliver to the County such instruments in writing as shall be requisite to satisfy the lien hereof, and deliver to the County any property at the time subject to the lien of this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Lessee under Section 510

hereof and except cash held by the Trustee for the payment of interest on and retirement of the Bonds; otherwise this Indenture to be and remain in full force and effect.

THIS TRUST INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all said lease rentals, revenues and receipts hereby pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the County has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective holders and owners, from time to time, of the said Bonds and the bearers of the interest coupons thereto appertaining, or any part thereof, as follows, that is

ARTICLE I

DEFINITIONS

SECTION 101. The terms defined in this Section 101 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 101.

"ACT" means Act No. 103 of the Acts of the General Assembly of the State of South Carolina, for the year 1967, as amended.

"BOND" or "BONDS" means the \$600,000 First Mortgage Industrial Revenue Bonds, Series 1973 (Tilbury Associates, a Joint Venture - Lessee) of the County to be issued hereunder.

"BOND FUND" or "AIKEN COUNTY INDUSTRIAL REVENUE BOND FUND - TILBURY PROJECT" means the fund created in Section 502 hereof.

"BONDHOLDER" or "HOLDER" or "OWNER OF THE BONDS" means the bearer of any coupon Bond which is not registered or is registered to bearer, and the registered owner of any Bond registered otherwise than to bearer.

"CHAIRMAN" means the chief executive officer of the County Board. The term shall also include the Vice Chairman of the County Board whenever, by reason of absence, illness, or other reason, the person who is the Chairman is unable to act.

"CONSTRUCTION FUND" or "AIKEN COUNTY INDUSTRIAL CONSTRUCTION FUND - TILBURY PROJECT" means the fund created by Section 602 hereof.

"COUNTY" means Aiken County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, and its successors and assigns.



"COUNTY BOARD" means the Board of Commissioners of Aiken County as the governing body of Aiken County, and any successor body.

The term "DEFAULT" means any of those defaults specified in and defined by Section 1001 hereof.

"EXTRAORDINARY SERVICES" and "EXTRAORDINARY EXPENSES" means all services rendered and all expenses incurred under the Indenture other than Ordinary Services and Ordinary Expenses.

"GUARANTOR" means Tilbury Fabrics, Inc., a New York corporation.

"GUARANTY AGREEMENT" means the Guaranty Agreement executed by and among the Guarantor, the County and the Trustee dated as of June 1, 1973.

"INDENTURE" means these presents and other indentures supplemental hereto with the Trustee in pursuance hereof.

"INSURER" means Commercial Loan Insurance Corporation, a Wisconsin corporation, the issuer of the Policy pursuant to which payment of the Lease Rentals is insured.

"LEASE AGREEMENT" means the Lease Agreement executed by and between the County and the Lessee dated as of June 1, 1973, and any amendments or supplements thereto.

"LEASE GUARANTEE INSURANCE POLICY CLAIM ACCOUNT" means the Lease Guarantee Insurance Policy Claim Account created by Section \_\_\_\_ of the Indenture and referred to herein.

"LEASE RENTALS" means all of the revenues, rents and receipts derived directly or indirectly from the leasing or sale of the Project including all moneys received under the Lease Agreement (excepting only amounts paid pursuant to Sections 5.4, 5.5, 6.3, 8.7 or 10.4 thereof.)

"LESSEE" means Tilbury Associates, a joint venture organized and existing under the laws of the State of New York and its successors and assigns and any surviving, resulting or transferee entity as provided in Section 8.3 of the Lease Agreement.

"MORTGAGED PROPERTY" means the properties conveyed as security hereunder in paragraphs I, II, III, IV, and V of the granting clause preceding this Article.

"ORDINARY SERVICES" and "ORDINARY EXPENSES" mean those services normally rendered and those expenses normally incurred by a trustee under instruments similar to this Indenture.

The term "OUTSTANDING" or "BONDS OUTSTANDING" means all Bonds which have been duly authenticated and delivered by the Trustee under this Indenture, except:

(a) Bonds theretofore cancelled by the Trustee or theretofore delivered to the Trustee for cancellation;

(b) Bonds in lieu of which others have been authenticated under Section 207 hereof, unless proof satisfactory to the Trustee is presented to the Trustee that any such Bonds are held by bona fide purchasers as that term is defined in Article 8 of the South Carolina Uniform Commercial Code, as amended, in which case the Bond or Bonds so replaced and the Bond or Bonds authenticated and delivered therefor shall be deemed outstanding; and

(c) Bonds deemed to have been paid within the meaning of Section 901 hereof.

"PENALTY RATE" shall mean interest at the rate of \_\_\_\_\_ % per annum.

"PERSON" means natural persons, firms, associations, corporations and public bodies.

"POLICY" means the Lease Guarantee Insurance Policy insuring the payment of Lease Rentals. The Policy is attached hereto as Exhibit "C".

"PROJECT" means the land and buildings, leased under the Lease Agreement.

"SECRETARY" means the Secretary of the County Board. This term shall also include a person whose title is Clerk, and the Assistant or Acting Secretary or Clerk of the County Board whenever by reason of absence, illness or other reason, the person who is the Secretary or Clerk is unable to act.

"TRUST ESTATE" means the Mortgaged Property.

"TRUSTEE" means Farmers & Merchants Bank, the party of the second part hereto, and any successor trustee pursuant to Sections 1105 or 1108 hereof at the time serving as successor trustee hereunder.



ARTICLE II  
THE BONDS

SECTION 201. Restriction on Issuance of Bonds.

No Bonds may be issued under provisions of this Indenture except in accordance with this Article.

The total principal amount of Bonds that may be issued is hereby expressly limited to \$600,000.

SECTION 202. Issuance of Bonds. The

Bonds in the aggregate principal amount of \$600,000 dated as of June 1, 1973, shall be designated "First Mortgage Industrial Revenue Bonds, Series 1973 (Tilbury Associates, a Joint Venture - Lessee)." They shall bear interest from June 1, 1973 at the respective rates per annum as set forth in the following schedule, payable December 1, 1973, and semiannually thereafter on June 1 and December 1 of each year. They shall mature on December 1 in each of the years set forth in, and in the principal amount set opposite each year in, the following schedule:

<u>December 1 in the Year</u>	<u>Principal Amount Maturing</u>	<u>Interest Rate</u>
1974	\$ 15,000	5.00%
1975	20,000	5.15%
1976	20,000	5.30%
1977	20,000	5.40%
1978	20,000	5.50%
1979	25,000	5.60%
1980	25,000	5.70%
1981	25,000	5.80%
1982	25,000	5.90%
1983	30,000	6.00%
1984	30,000	6.10%
1985	30,000	6.20%
1986	30,000	6.30%
1987	35,000	6.40%
1988	35,000	6.50%
1989	40,000	6.50%
1990	40,000	6.50%
1991	40,000	6.50%
1992	45,000	6.50%
1993	50,000	6.50%

The interest on the Bonds, shall be evidenced by coupons. The principal of, premium, if any, and interest on the Bonds, except as otherwise provided in the case of registration of Bonds as provided in Section 208 hereof, shall be payable to bearer upon presentation and surrender of the Bonds or coupons as they respectively become due at the principal office of the Trustee, or, at the option of the holder, at the principal office of

\_\_\_\_\_, in the City of \_\_\_\_\_,  
State of \_\_\_\_\_. Payments of interest made in  
respect of any registered Bond provided for in Section 208  
shall be by check or draft mailed by the Trustee to the registered  
owner at the address shown on the registration book. The  
Trustee shall keep a record of all such payments. Payments  
of principal and premium, if any, made in respect of any  
registered Bond shall be made to or upon the order of the  
registered owner or his legal representative upon presentation  
or surrender of such Bond for cancellation at the principal  
office of the Trustee in the City of \_\_\_\_\_, or,  
at the option of the holder, at the principal office of  
\_\_\_\_\_, in the City of \_\_\_\_\_  
for cancellation.

SECTION 203. Execution; Limited Obligation. The  
Bonds shall be executed on behalf of the County by the  
Chairman of the County Board and the corporate seal of  
the County or a facsimile thereof shall be impressed or  
reproduced thereon and attested by the Secretary of the  
County Board, provided that at least one of said signatures  
shall be a manual signature. The coupons attached to the  
Bonds shall be executed by the facsimiles of the official  
signatures of said Chairman and Secretary and such facsimiles  
shall have the same force and effect as if said Chairman  
and Secretary had manually signed each of the coupons.  
The Bonds, together with interest thereon, shall be limited  
obligations of the County payable from the Bond Fund and  
shall be a valid claim of the respective holders thereof  
only against such fund and the Lease Rentals from the leasing

or sale of the Project pledged to such fund (but in addition shall be secured by the lien of the Indenture on the Project), which Lease Rentals are hereby pledged and assigned for the equal and ratable payment of the Bonds and the coupons and shall be used for no other purposes than to pay the principal of, premium, if any, and interest on the Bonds, except as may be otherwise expressly authorized in this Indenture. The Bonds and coupons do not now and shall never constitute an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

In case any officer whose signature or facsimile of whose signature shall appear on the Bonds or coupons shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

SECTION 204. Authentication. Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form hereinabove set forth duly executed by the Trustee shall be entitled to any right or benefit under this Indenture. No Bond and no coupon appertaining to any Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been



executed by it if signed by an authorized signature of the Trustee, but it shall not be necessary that the same person sign the certificate of authentication on all of the Bonds issued hereunder. Before authenticating or delivering any Bonds, the Trustee shall detach and cancel all matured coupons, if any, appertaining thereto, and such cancelled coupons shall be cremated by the Trustee.

SECTION 205. Form of Bonds. The Bonds issued under this Indenture and the coupons attached thereto shall be substantially in the forms set forth in Exhibit B attached hereto with such appropriate variations, omissions and insertions as are permitted or required by this Indenture.

SECTION 206. Delivery of Bonds. Upon the execution and delivery of this Indenture, the County shall execute and deliver to the Trustee and the Trustee shall authenticate the Bonds in the aggregate principal amount of \$600,000 and deliver them to the purchaser as may be directed by the County as hereinafter in this Section 206 provided.

Prior to the authentication by the Trustee of any of the Bonds there shall be filed with the Trustee:

1. A copy, duly certified by the Secretary of the County Board, of the resolution of the County Board authorizing the execution and delivery of the Lease Agreement and Guaranty Agreement.
2. An original executed counterpart of the Lease Agreement, Guaranty Agreement and the Policy.
3. A copy, duly certified by the Secretary of the County Board, of the resolution of the County Board authorizing

the execution and delivery of this Indenture and the issuance of the \$600,000 aggregate principal amount of the Bonds.

4. The written opinion of counsel for the County, or other counsel satisfactory to the Trustee, expressing the conclusion that upon payment of the purchase price of the land described in Exhibit A attached hereto and acceptance of the instruments of conveyance, all as theretofore agreed upon, the County will have title free and clear of liens and encumbrances upon said land (except for Permitted Encumbrances as defined in the Lease Agreement).

5. A title insurance policy (or an appropriate binder) meeting the requirements of Section 3.3 of the Lease Agreement.

6. A request and authorization to the Trustee on behalf of the County Board and signed by the Chairman and Secretary of the County Board to authenticate and deliver the Bonds in the aggregate principal amount of \$600,000 to the purchasers therein identified upon payment to the Trustee but for account of the County of a sum specified in such request and authorization plus accrued interest thereon to the date of delivery. Such proceeds shall be paid over to the Trustee and deposited to the credit of the Bond Fund and Construction Fund as hereinafter provided under Article VI hereof.

SECTION 207. Mutilated, Lost, Stolen or Destroyed Bonds or Coupons. In the event any Bond is mutilated, lost, stolen or destroyed, the County may execute and the Trustee may authenticate a new Bond of like date, maturity and denomination as that mutilated, lost, stolen or destroyed, which new Bond shall have attached thereto coupons corresponding

in all respects to those (if any) on the Bond mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond together with all coupon (if any) appertaining thereto shall first be surrendered to the County, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the County and the Trustee evidence of such loss, theft or destruction satisfactory to the County and the Trustee, together with indemnity satisfactory to them. In the event any such Bond or coupon shall have matured, instead of issuing a duplicate Bond or coupon the County may pay the same without surrender thereof. The County and the Trustee may charge the holder or owner of such Bond with their reasonable fees and expenses in this connection.

SECTION 208. Registration of Bonds; Persons Treated As Owners. Each of the Bonds issued hereunder shall be fully negotiable and pass by delivery but shall be subject to registration (as hereinafter provided) as to principal or as to both principal and interest in the name of the owner on registration books to be provided for that purpose by the County at said principal office of the Trustee, as Bond Registrar. Upon presentation at said office any of the Bonds may be registered as to principal only and such registration shall be evidenced by notation to that effect by the Bond Registrar in the registration blank on the reverse side thereof, after which no transfer thereof shall be valid unless made at the written request of the registered owner or his duly authorized attorney on said registration books and similarly endorsed thereon. Such registered Bonds may be thus transferred to bearer whereupon transferability by delivery shall be restored but the Bonds



may again, from time to time, be registered or transferred to bearer as before. Such registration of any of the Bonds shall not affect the transferability by delivery only of the coupons thereunto appertaining, provided that if upon registration of any such Bond, or at any time thereafter while registered in the name of the owner, the unmatured coupons attached evidencing interest to be thereafter paid thereon shall be surrendered to said Bond Registrar a statement to that effect will be endorsed thereon and thereafter interest evidenced by such surrendered coupons will be paid by check or draft at the times provided therein to the registered owner by mail to the address shown on the registration books. Each of the Bonds when converted as aforesaid into a Bond registered as to both principal and interest may be reconverted into a coupon Bond at the written request of the registered owner or his duly authorized attorney and upon presentation at the office of said Bond Registrar. Upon such reconversion the coupons representing the interest to become due thereafter to the date of maturity will be attached to the Bond and a statement will be endorsed thereon by said Bond Registrar in the registration blank on the back of the Bond as to whether it is then registered as to principal alone or payable to bearer. No charge shall be made to any Bondholder for the privilege of registration and transfer hereinabove granted, but any bondholder requesting any such registration or transfer shall pay any tax or other governmental charge required to be paid with respect thereto. As to any Bond registered as to principal, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all

purposes and payment of or on account of the principal of any such Bond shall be made only to or upon the order of the registered owner thereof, or his duly authorized attorney, and neither the County, the Trustee, any paying agent nor the Bond Registrar shall be affected by any notice to the contrary, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid. The County, the Trustee, the Bond Registrar and any paying agent may deem and treat the bearer of any Bond which shall not at the time be registered as to principal (except to bearer), and the bearer of any coupon appertaining to any Bond, whether such Bond be registered as to principal or not, as the absolute owner of such Bond or coupon, as the case may be, whether such Bond or coupon shall be overdue or not, for the purpose of receiving payment thereof and for all other purposes whatsoever, and neither the County, the Bond Registrar, any paying agent nor the Trustee shall be affected by any notice to the contrary.

ARTICLE III

REDEMPTION OF BONDS BEFORE MATURITY

SECTION 301. Redemption Dates and Prices for

Bonds. The Bonds are noncallable for redemption prior to December 1, 1989, except in the event of exercise by the Lessee of its options to purchase the Project as provided in Section 11.2 of the Lease Agreement. If called for redemption in such event, the Bonds shall be subject to redemption by the County at any time after notice as provided in this Indenture, whether or not such date is an interest payment date, in whole and not in part, at the redemption prices (expressed as percentages of principal amount) set forth in the table below plus accrued interest to the redemption date:

<u>Redemption Date</u> <u>(dates inclusive)</u>	<u>Redemption</u> <u>Price</u>
June 1, 1973 to May 31, 1975	103.00%
June 1, 1975 to May 31, 1977	102.50%
June 1, 1977 to May 31, 1979	102.00%
June 1, 1979 to May 31, 1981	101.50%
June 1, 1981 to May 31, 1982	101.00%
June 1, 1982 and thereafter	100.00%

The Bonds maturing on and after December 1, 1984, are also subject to redemption by the County prior to maturity on any interest payment date on or after December 1, 1983, in whole or in part, but if in part in inverse numerical order, at the redemption prices (expressed as percentages of principal amount) set forth in the table below, plus accrued interest to the redemption date:

<u>Redemption Date</u> <u>(dates inclusive)</u>	<u>Redemption</u> <u>Price</u>
December 1, 1983 to December 1, 1988]	104.00%
June 1 and December 1, 1989	103.50%
June 1 and December 1, 1990	103.00%
June 1 and December 1, 1991	102.00%
June 1 and December 1, 1992	101.00%
June 1, 1993	100.00%



SECTION 302. Notice of Redemption. In the event any of the Bonds are called for redemption, the Trustee shall give notice, in the name of the County, of the redemption of such Bonds, which notice shall specify the redemption date and the place or places where amounts due upon such redemption will be payable and the numbers of such bonds so to be redeemed. Such notice shall be given by publication at least once not less than 30 days nor more than 60 days prior to the redemption date in a newspaper or financial journal of general circulation published in the City of New York, and in the case of the redemption of Bonds registered as to principal, upon mailing a copy of the redemption notice by first class mail at least thirty days prior to the date fixed for redemption to the holder of each such Bond to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing or any defect therein, shall not affect the validity of any proceedings for the redemption of Bonds. If all of the Bonds to be redeemed are Bonds registered as to principal, notice by mailing given by first class mail to the holder or holders thereof, at the addresses shown on the registration books, not less than thirty days prior to the date fixed for redemption as aforesaid shall be sufficient and published notice of the call for

redemption need not be given and failure duly to give such notice by mailing, or any defect in the notice, to the holder of any such Bond designated for redemption shall not affect the validity of any proceedings for the redemption of any other Bond. All Bonds so called for redemption will cease to bear interest on the specified redemption date, provided funds for their redemption are on deposit with the Trustee and shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture. If, because of the temporary or permanent suspension of the publication or general circulation of any newspaper or financial journal or for any other reason, it is impossible or impracticable to publish such notice of call for redemption in the manner herein provided, then such publication in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient publication of notice.

SECTION 303. Cancellation. All Bonds which have been redeemed shall be cancelled and cremated by the Trustee together with the unmatured coupons appertaining thereto and shall not be reissued and a counterpart of the certificate of cremation evidencing such cremation shall be furnished by the Trustee to the County and the Lessee.

SECTION 304. Unpaid Coupons. All unpaid coupons which appertain to Bonds so called for redemption and which shall have become payable on or prior to the date fixed for redemption shall continue to be payable to the bearers thereof severally and respectively upon the presentation and surrender of such coupons.

SECTION 305. Purchase of Bonds. The Trustee shall, if and to the extent practicable, purchase Bonds at the written direction of the County upon request of the Lessee at such time, in such manner and at such price as may be specified by the Lessee. The Trustee may so purchase Bonds with any moneys then held by the Trustee and available for the redemption or purchase of Bonds; provided, that any limitations or restrictions on such redemption or purchase contained in the Lease Agreement or this Indenture shall be complied with. The expenses of such purchase shall be deemed an expense of the Trustee under Section 1102.

SECTION 306. Selection of Bonds to be Redeemed. In the event of redemption of less than all of the Bonds, the Bonds to be redeemed shall be redeemed in inverse numerical order. If, on the redemption date, moneys for the redemption of all the Bonds to be redeemed, together with interest to the redemption date, shall be held by the Trustee so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the redemption date, interest on the Bonds so called for redemption shall cease to accrue and become payable, and the coupons for interest appertaining thereto maturing subsequent to the redemption date shall be void. If said moneys shall not be so available on the redemption date, such Bonds shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.



ARTICLE IV

GENERAL COVENANTS

SECTION 401. Condition of County's Obligation; Payment of Principal and Interest. Each and every covenant herein made, including all covenants made by the various sections of this Article IV, is predicated upon the condition that any obligation for the payment of money incurred by the County shall not create a pecuniary liability of the County or a charge upon its general credit or against its taxing powers, but shall be payable solely from the Lease Rentals, which are required to be set apart and transferred to the Bond Fund, and which Lease Rentals are hereby specifically pledged to the payment thereof in the manner and to the extent in this Indenture specified and nothing in the Bonds or coupons or in this Indenture shall be considered as pledging any other funds or assets of the County.

The County covenants that it will promptly pay (but solely from, and only to the extent of, the Lease Rentals), the principal of, including any applicable redemption premiums, and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said Bonds, and in the coupons appertaining thereto according to the true intent and meaning thereof.

SECTION 402. Performance of Covenants; Authority of County. The County covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings pertaining thereto. The County covenants

that it is duly authorized under the Constitution and laws of the State of South Carolina, to issue the Bonds authorized hereby and to execute this Indenture, to convey the property described in and conveyed hereby and to pledge the Lease Rentals hereby pledged in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken, and that the Bonds in the hands of the holders and owners thereof and the coupons appertaining thereto in the hands of the bearers thereof are and will be valid and enforceable obligations of the County according to the import thereof.

SECTION 403. Ownership; Instruments of Further Assurance.

The County covenants that it lawfully owns and is lawfully possessed of the Project and that it has good and indefeasible title and estate therein, except for Permitted Encumbrances as defined in the Lease Agreement (or, in the case of any property included in the Project and not yet acquired, that the same will be acquired by the County from the moneys in the Construction Fund or from moneys furnished by the Lessee pursuant to the Lease Agreement), and that it will defend the title to the Project and every part thereof to the Trustee, for the benefit of the holders and owners of the Bonds and the bearers of the coupons appertaining thereto against the claims and demands of all persons whomsoever. The County covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably

require for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Trustee all and singular the property herein described and the Lease Rentals pledged hereby to the payment of the principal of and interest and premium, if any, on the Bonds. Any and all property hereafter acquired which is of the kind or nature herein provided to be and become subject to the lien hereof shall ipso facto, and without any further conveyance, assignment or act on the part of the County or the Trustee, become and be subject to the lien of this Indenture as fully and completely as though specifically described herein, but nothing in this sentence contained shall be deemed to modify or change the obligations of the County under this Section 403. The County covenants and agrees that, except as herein and in the Lease Agreement provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project or the Lease Rentals therefrom or of its rights under the Lease Agreement.

SECTION 404. Payment of Taxes, Charges, Etc. Pursuant to the provisions of the Lease Agreement the Lessee has agreed to pay all lawful taxes, assessments and charges at any time levied or assessed upon or against the Project, or any part thereof, failure to pay which might impair or prejudice the lien and priority of this Indenture; provided, however, that nothing contained in this Section 404 shall require the payment of any such taxes, assessments or charges if the same are not required to be paid under the provisions of the Lease Agreement.



SECTION 405. Maintenance and Repair. Pursuant to the provisions of the Lease Agreement the Lessee has agreed at its own expense to cause the Project to be kept in as reasonably safe condition as its operations shall permit, and that it will from time to time cause to be made all needed repairs so that the Project shall at all times be kept in good repair and in good operating condition, and that the Lessee may, at its own expense, make from time to time additions, modifications and improvements to the Project under the terms and conditions set forth in the Lease Agreement.

SECTION 406. Inspection of Project Books. The County covenants and agrees that all books and documents in its possession relating to the Project and the Lease Rentals derived from the Project shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

SECTION 407. Rights Under Lease Agreement and Policy. The Lease Agreement, a duly executed counterpart of which has been filed with the Trustee, sets forth the covenants and obligations of the County and the Lessee including a provision that subsequent to the issuance of the Bonds and prior to their payment in full, or provision for the payment thereof in accordance with the provisions hereof, the Lease Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Trustee and reference is hereby made to the Lease Agreement for a detailed statement of said covenants and obligations of the Lessee under the Lease Agreement, and the County agrees that the Trustee in its name or in the name of the County may enforce all rights of the County and all obligations of the Lessee under and pursuant to the Lease Agree-

ment and may enforce all rights of the County and all obligations of the Insurer under and pursuant to the Policy on behalf of the Bondholders whether or not the County is in default hereunder.

SECTION 408. List of Bondholders. To the extent that such information shall be made known to the County under the terms of this Section 408, it will keep on file at the corporate trust office of the Trustee a list of names and addresses of the last known holders of all Bonds payable to bearer and believed to be held by each of such last known holders. Any Bondholder may request that his name and address be placed on said list by filing a written request with the County or with the Trustee, which request shall include a statement of the principal amount of Bonds held by such holder and the numbers of such Bonds. The Trustee shall be under no responsibility with regard to the accuracy of said list. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copies by the Lessee or by holders and/or owners (or a designated representative thereof) of twenty-five percent or more in principal amount of Bonds then outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

SECTION 409. Recording and Filing. This Indenture shall be recorded and indexed as mortgage of real estate in the office in the County wherein are recorded mortgages of real estate, or in such other office as may be at the time provided by law as the proper place for the recordation thereof. The security interest of the Trustee created by this Indenture in the Lease Rentals shall be perfected by the filing in the office in the County wherein financing statements are filed, and in the office of the Secretary of State of South Carolina, in the City of

Columbia, South Carolina, of financing statements which fully comply with the South Carolina Uniform Commercial Code - Secured Transactions. Such financing or continuation statements shall be filed from time to time by the Trustee in said offices of the County and of the Secretary of State of South Carolina as in the opinion of counsel, as provided in Section 13.5(a)(4) of the Lease Agreement or otherwise, are necessary to preserve the lien of this Indenture.



ARTICLE V

REVENUES AND FUNDS

SECTION 501. Source of Payment of Bonds. The Bonds herein authorized and all payments by the County hereunder are not general obligations of the County but are limited obligations payable solely from the Lease Rentals derived from the Project and as authorized and provided in this Indenture.

The Project has been leased under the Lease Agreement and the payments provided for in Section 5.3 of the Lease Agreement are to be remitted directly to the Trustee for the account of the County and deposited in the Bond Fund. Such payments are sufficient in amount to pay the principal of, premium, if any, and interest on the Bonds, and the Lease Rentals are pledged to the payment of the principal of, premium, if any, and interest on the Bonds. The County hereby covenants and agrees that it will not create any lien upon said Lease Rentals or the Project other than the lien hereby created.

SECTION 502. Creation of the Bond Fund. There is hereby created by the County and ordered established with the Trustee a trust fund to bear the designation set forth in the definition of "Bond Fund" in Section 101.

SECTION 503. Payments into the Bond Fund. There shall be deposited into the Bond Fund all accrued interest derived from the sale of the Bonds. In addition, there shall be deposited into the Bond Fund, as and when received (a) any amount remaining in the Construction Fund to the extent provided in Section 4.3 of the Lease Agreement except as otherwise directed

pursuant to said Section 4.3; (b) all payments prescribed by Section 5.3 of the Lease Agreement; (c) all moneys received by the County or the Trustee pursuant to the Policy; and (d) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease Agreement when the Lease Agreement provides for their deposit in the Bond Fund when accompanied by directions by Lessee that such moneys are to be paid into the Bond Fund. The County hereby covenants and agrees that so long as any of the Bonds issued hereunder are outstanding it will deposit, or cause to be deposited (but solely from, and only to the extent of, the Lease Rentals), in the Bond Fund for its account sufficient sums from Lease Rentals promptly to meet and pay the principal of, interest and premium, if any, on the Bonds as the same become due and payable and to this end the County covenants and agrees, so long as any Bonds issued hereunder are outstanding, that, should there be a default under the Lease Agreement with the result that the right of possession of the Project under the Lease Agreement is returned to the County, the County shall fully cooperate with the Trustee and with the Bondholders to the end of fully protecting the rights and security of the Bondholders and the bearers of coupons appertaining to the Bonds and shall diligently proceed in good faith and use its best effort to secure another tenant for the premises to the end that at all times sufficient Lease Rentals will be derived from the Project promptly to meet and pay the principal of, interest and premium, if any, on the Bonds as the same become due and payable, and to defray the cost of maintaining and insuring the Project. Nothing herein

shall be construed as requiring the County to operate the Project or to use any funds or revenues from any source other than Lease Rentals.

SECTION 504. Use of Moneys in the Bond Fund. Except as provided in Section 510 hereof, moneys in the Bond Fund shall be used solely for the payment of the principal of, interest on, and premium, if any, on the Bonds and for the redemption of the Bonds at or prior to maturity. Except as provided in Article III, no moneys in the Bond Fund shall be used to redeem, prior to maturity, a part of the Bonds outstanding; provided, that whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds outstanding hereunder and to pay interest to accrue thereon prior to such redemption, the County covenants and agrees to take and cause to be taken the necessary steps to redeem all of said Bonds on the next succeeding redemption date for which the required redemption notice may be given; and provided further that any moneys in the Bond Fund resulting from payments made pursuant to Section 9.5 of the Lease Agreement may be used at the request of the County to redeem a part of the Bonds outstanding on the next succeeding redemption date for which the required notice of redemption may be given, so long as the Lessee is not in default under the Lease Agreement, and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption and past due interest in all cases where such Bonds or coupons have not been presented for payment.

SECTION 505. Custody of the Bond Fund. The Bond Fund shall be in the custody of the Trustee but in the name of the County and the County hereby authorizes and directs the



Trustee to withdraw sufficient funds from the Bond Fund to pay principal of and interest and premium, if any, on the Bonds as the same become due and payable and to make said funds so withdrawn available to the Trustee and to the paying agent or agents for the purpose of paying said principal and interest, and premium, if any, which authorization and direction the Trustee hereby accepts.

SECTION 506. Non-presentment of Bonds or Coupons.

In the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption thereof or otherwise, or in the event any coupon shall not be presented for payment at the due date thereof, if funds sufficient to pay such Bonds or coupons shall have been made available to the Trustee for the benefit of the holder or holders thereof, all liability of the County to the holder thereof for the payment of such Bond or coupon, as the case may be, shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the holder of such Bond, or the bearer of such coupon, as the case may be, who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond or coupon.

SECTION 507. Trustee's and Paying Agents' Fees, Charges and Expenses. Pursuant to the provisions of the Lease Agreement, the Lessee has agreed to pay the Trustee, until the principal of, interest and premium, if any, on the Bonds shall have

been fully paid: (i) an amount equal to the annual fee of the Trustee for the Ordinary Services of the Trustee rendered, as trustee, and its Ordinary Expenses incurred, as trustee, under this Indenture, as and when the same becomes due, (ii) the reasonable fees and charges of the Trustee, as Bond Registrar and paying agent, and any paying agents for acting as paying agent as and when the same become due, and (iii) the reasonable fees and charges for the necessary Extraordinary Services and Extraordinary Expenses of the Trustee under this Indenture, as and when the same become due. The Lessee may, without creating a default hereunder, contest in good faith the necessity for any such Extraordinary Services and Extraordinary Expenses and the reasonableness of any of the fees, charges or expenses referred to herein.

SECTION 508. Moneys to Be Held in Trust. All moneys required to be deposited with or paid to the Trustee for account of the Bond Fund or the Construction Fund under any provision of this Indenture shall be held by the Trustee in trust, and except for moneys deposited with or paid to the Trustee for the redemption of Bonds, notice of the redemption of which has been duly given, shall, while held by the Trustee, constitute part of the Trust Estate and be subject to the lien hereof.

SECTION 509. Insurance and Condemnation Proceeds. Reference is hereby made to Article VII of the Lease Agreement whereunder it is provided that under certain circumstances the net proceeds of insurance and condemnation awards are to be paid to the Trustee and deposited in separate trust accounts and to be disbursed and paid out as therein provided.

The Trustee hereby accepts and agrees to perform the duties and obligations as therein specified. Any moneys held by the Trustee pursuant to the provisions of this Section may be invested and reinvested, with the approval of the Lessee, in investments authorized by Section 702 hereof for the investment of moneys held as a part of the Bond Fund.

SECTION 5.10. Repayment to the Lessee from the Bond Fund. Any amounts remaining in the Bond Fund after payment in full of the principal of, interest and premium, if any, on Bonds (or provision for payment thereof as provided in this Indenture), the fees, charges and expenses of the Trustee and any paying agents and all other amounts required to be paid hereunder shall be paid to the Lessee upon the expiration or sooner termination of the term of the Lease Agreement as provided in the Lease Agreement.

SECTION 5.11. Lease Guarantee Insurance Policy Claim Account. There is hereby created and established with the Trustee a Trust Fund to bear the designation "Lease Guarantee Insurance Policy Claim Account - Tilbury Project". Except as hereinafter provided moneys in this fund shall be used solely for the payment of principal and interest on the Bonds during any deductible period under the Policy following the occurrence of an event of default (as defined in Article X of this Indenture). Upon the occurrence of an event of default resulting in the nonpayment of rents applicable to the payment of principal and/or interest on any Bond, Trustee shall forthwith, and without any further direction or authorization, transfer into the Bond Fund out of the Lease Guarantee Insurance Policy Claim Account such sums as shall be necessary to pay such rents applicable to payment of principal and/or interest on the Bonds during the deductible period under the Policy.



Moneys in the Lease Guarantee Insurance Policy Claim Account shall be invested and reinvested by the Trustee, at the direction of the authorized Lessee representative, in investments permitted for Construction Fund moneys as provided in Section 4.9 of the Lease Agreement. Any income or earnings from the investment of moneys in the Lease Guarantee Insurance Policy Claim Account shall be paid over to the Lessee when received by the Trustee.

When the Bonds have been paid, or provision for their payment has been made as provided in Section 901 of this Indenture, the Trustee shall, without further direction or authorization, pay over to the Lessee any moneys held by the Trustee in the Lease Guarantee Insurance Policy Claim Account.

SECTION 512. Disposition of Certain Moneys in Bond Fund.

In the event there shall be delivered to the Trustee any moneys resulting from the release of any of the leased land pursuant to Section 8.5 of the Lease Agreement or the purchase of unimproved portions of leased land pursuant to Section 11.3 of the Lease Agreement, such moneys shall be held by the Trustee in the Bond Fund and shall be applied only to the payment of the Bonds (whether at maturity or by redemption) in the inverse order of the maturity of the Bonds.

in equity and the Trustee, the Insurer or the holder or holders of any of the Bonds then outstanding, whether or not then in default of payment of principal or interest, may become the purchaser

## ARTICLE VI

### CUSTODY AND APPLICATION OF PROCEEDS OF BONDS

SECTION 601. Deposits in the Bond Fund. From the proceeds of the issuance and delivery of Bonds there shall be deposited in the Bond Fund all accrued interest received upon the sale of the Bonds.

SECTION 602. Construction Fund; Disbursement. There is hereby created and established with the Trustee a Trust fund in the name of the County to bear the designation set forth in the definition of "Construction Fund" in Section 1.1. The balance of the proceeds of the issuance and delivery of Bonds remaining after the deduction provided by Section 601 hereof shall have been made shall be deposited in the Construction Fund. Moneys in the Construction Fund shall be expended in accordance with the provisions of the Lease Agreement and particularly Section 4.3 thereof.

The Trustee is hereby authorized and directed to issue its checks for each disbursement required by the aforesaid provisions of the Lease Agreement.

The Trustee shall keep and maintain adequate records pertaining to the Construction Fund and all disbursements therefrom, and after the Project shall have been completed and a certificate of payment of all costs filed as provided in Section 603 hereof, the Trustee shall, if requested by the Lessee, file an accounting thereof with the County and with the Lessee.

SECTION 603. Completion of the Project. The completion of the Project and the payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the certificate of the Authorized Lessee Representative

(as defined in the Lease Agreement) required by the provisions of the Lease Agreement. As soon as practicable and in any event within sixty days from the date of the said certificate any balance remaining in the Construction Fund (other than the amounts retained by the Trustee referred to in the preceding sentence) shall without further authorization be deposited in the Bond Fund by the Trustee with advice to the County and to the Lessee of such action unless the Lessee shall have directed the Trustee to purchase Bonds in the open market for the purpose of cancellation in accordance with Section 4.3 of the Lease Agreement.



ARTICLE VII

INVESTMENTS

SECTION 701. Investment of Construction Fund Moneys.

Any moneys held as part of the Construction Fund shall, at the written request of and as specified by the Authorized Lessee Representative (as defined in the Lease Agreement), be invested and reinvested by the Trustee in accordance with the provisions of Section 4.9 of the Lease Agreement. Any such investments shall be held by or under the control of the Trustee and shall be deemed at all times a part of the Construction Fund and the interest accruing thereon and any profit realized from such investments shall be credited to such fund, and any loss resulting from such investments shall be charged to such fund. The Trustee is directed to sell and reduce to cash funds a sufficient amount of such investments whenever the cash balance in the Construction Fund is insufficient to pay a requisition when presented.

SECTION 702. Investment of Bond Fund Moneys.

Any moneys held as part of the Bond Fund shall, at the written request of and as specified by the Authorized Lessee Representative (as defined in the Lease Agreement), be invested or reinvested by the Trustee in any bonds or other obligations which as to principal and interest constitute direct obligations of the United States of America, having maturities consonant with the need to apply moneys in the Bond Fund to the payment of principal, interest and premium, if any, to come due on the Bonds. Any such investment shall be held by or under control of the Trustee and shall be deemed at all times a part of the Bond Fund and the interest accruing thereon and any profit realized therefrom shall be credited to such fund. The Trustee shall sell and reduce to cash funds a sufficient portion of investments under the provisions of this

Section 702 whenever the cash balance in the Bond Fund is insufficient to pay the current interest and principal requirements.

SECTION 703. Limitation on Investments. The Trustee shall not invest any of the moneys in the Construction Fund or the Bond Fund if to do so would be contrary to any policy or rules or regulations of the Internal Revenue Service with respect to arbitrage and the effect of which would be to cause the loss of the exemption of the interest on the Bonds from Federal Income Taxes.

SECTION 704. Trustee's Own Bond Department. The Trustee may make any and all investments permitted under Section 701 and Section 702 through its own Bond Department.

ARTICLE VIII

POSSESSION, USE AND PARTIAL RELEASE OF LEASED PROPERTY

SECTION 801. Subordination to Rights of the Lessee.

This Indenture and the rights and privileges hereunder of the Trustee and the holders of the Bonds and bearers of coupons appertaining thereto are specifically made subject and subordinate to the rights and privileges of the Lessee set forth in the Lease Agreement. So long as not otherwise provided in this Indenture the County shall be suffered and permitted to possess, use and enjoy the Mortgaged Property and appurtenances so as to carry out its obligations under the Lease Agreement.

SECTION 802. Release of Leased Land. Reference is made to the provisions of the Lease Agreement, including without limitation Sections 8.5 and 11.3 thereof, whereby the County and the Lessee have reserved the right to withdraw certain portions of the Leased Land (as defined in the Lease Agreement) upon compliance with the terms and conditions of the Lease Agreement. The Trustee shall release from the lien of this Indenture any such land upon compliance with the provisions of the Lease Agreement.

SECTION 803. Granting of Easements. Reference is made to the provisions of the Lease Agreement, including, without limitation Section 8.6 thereof, whereby the Lessee may grant easements and take other action upon compliance with the terms and conditions of the Lease Agreement. The Trustee shall execute or confirm the grants or releases of easements, licenses, rights of way and other rights and privileges permitted by Section 8.6 thereof upon compliance with the provisions of the Lease Agreement.



ARTICLE IX

DISCHARGE OF LIEN

SECTION 901. Discharge of Lien of the Indenture.

If the County shall pay or cause to be paid to the holders and owners of the Bonds and bearers of coupons the principal, interest and premium, if any, to become due thereon at the times and in the manner stipulated therein and herein, and shall have paid all fees and expenses of the Trustee and each paying agent, and if the County shall keep, perform and observe all and singular the covenants and promises in the Bonds and in this Indenture expressed as to be kept, performed and observed by it or on its part, or if the issuance of the Bonds is not made within the time provided in Section 4.2 of the Lease Agreement, then these presents and the estate and rights hereby granted shall, at the option of the County, cease, determine and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture and execute and deliver to the County such instruments in writing as shall be requisite to satisfy the lien hereof, and re-convey to the County the estate hereby conveyed, and assign and deliver to the County any property at the time subject to the lien of this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Lessee under Section 510 hereof and except funds, or securities in which such funds are invested, held by the Trustee for the payment of principal of, interest and premium, if any, on the Bonds.

Bonds and coupons shall be deemed to be paid within the meaning of this Article when there shall have been deposited with the Trustee for the payment or redemption of Bonds and coupons (i) moneys, (ii) obligations of the sort permitted by Section 702 hereof, or (iii) any combination of "(i)" or "(ii)", the principal of and interest on will, as payable, provide sufficient moneys,

whether upon or prior to maturity or the redemption date of such Bonds, to pay and redeem all the Bonds on the earliest redemption date; provided, however, that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given or arrangements satisfactory to the Trustee shall have been made for the giving thereof.

If, through lapse of time or otherwise, the holder of any bond or coupon shall no longer be able to enforce payment of the principal of, premium, if any, and interest on such bond or coupon against the County, then in such event the Trustee shall (upon indemnification satisfactory to the Trustee) pay to the Lessee the sum or sums paid to the Trustee by the Lessee therefor.

ARTICLE X

DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

SECTION 1001. Defaults; Events of Default. If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "event of default":

(a) Default in the due and punctual payment of any interest on any Bond; or

(b) Default in the due and punctual payment of the principal of any Bond (and premium, if any), whether at the stated maturity thereof, or upon proceedings for redemption thereof, or upon the maturity thereof by declaration; or

(c) Subject to the provisions of Section 1013, default in the performance or observance of any other of the covenants, agreements or conditions on the part of the County in this Indenture or in the Bonds contained; or

(d) The occurrence of an "event of default" under the Lease Agreement.

SECTION 1002. Acceleration. Upon the occurrence of an event of default the Trustee may, and upon the written request of the holders of not less than twenty-five percent in aggregate principal amount of Bonds then outstanding shall, by notice in writing delivered to the County, declare the principal of all Bonds then outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable.



SECTION 1003. Surrender of Possession of Mortgaged Property; Rights and Duties of Trustee in Possession; Other Remedies. Upon the occurrence of an event of default, it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Mortgaged Property together with the books, papers and accounts of the County pertaining thereto, and including the rights and the position of the County under the Lease Agreement, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements as by the Trustee shall be deemed wise; and the Trustee may lease the Project or any part thereof in the name and for account of the County and collect, receive and sequester the rents, revenues, issues, earnings, income, products and profits therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and/or set up proper reserves for the payment of, all proper costs and expenses of so taking, holding and managing the same, including reasonable compensation to the Trustee, its agents and counsel, and any charges of the Trustee hereunder, and any taxes and assessments and other charges prior to the lien of this Indenture which the Trustee may deem it wise to pay, and all expenses of such repairs and improvements, and apply the remainder of the moneys so received in accordance with the provisions of Section 1008 hereof. Whenever all that is due upon the Bonds shall have been paid and all defaults made good, the Trustee shall surrender possession to the County; the same right of entry, however, to exist upon any subsequent event of default.

While in possession of such property the Trustee shall render annually to the County, the Lessee, the Insurer and also to the Bondholders, at their addresses set forth in the list required by Section 408 hereof and to the holders of all Bonds then

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registered as to principal (except to bearer) at their addresses shown by the registration books, a summarized statement of income and expenditures in connection therewith.

Upon the occurrence of an event of default the lien on the Project created and vested by this Indenture may be foreclosed either by sale at public outcry or by proceedings in equity and the Trustee, the Insurer or the holder or holders of any of the Bonds then outstanding, whether or not then in default of payment of principal or interest, may become the purchaser at any foreclosure sale if the highest bidder.

Upon the occurrence of an event of default, Trustee shall have the power to proceed with any right or remedy granted by the Constitution and laws of the State of South Carolina, as it may deem best, including any suit, action or special proceeding in equity or at law for the specific performance of any covenant or agreement contained herein or for the enforcement of any proper legal or equitable remedy as the Trustee shall deem most effectual to protect the rights aforesaid, insofar as such may be authorized by law, and the right to appointment, as a matter of right and without regard to the sufficiency of the security afforded by the Mortgaged Property, of a receiver for all or any part of the Mortgaged Property and the earnings, rents and income thereof; the rights here specified are to be cumulative to all other available rights, remedies or powers and shall not exclude any such rights, remedies or powers.

SECTION 1004. Rights of Bondholders and Insurer. If an event of default shall have occurred, and if requested so to do by the holders of not less than twenty-five per cent in the aggregate principal amount of Bonds then outstanding and if indemnified as provided in Section 1101(1) hereof, the Trustee

shall be obliged to exercise such one or more of the rights and powers conferred by this Article X as the Trustee, being advised by counsel, shall deem most expedient in the interest of the Bondholders; provided, that during such time as payment is being made by the Insurer in accordance with, and pursuant to, the Policy, the Insurer shall have the right to direct the Trustee as to which remedy or remedies granted the Trustee hereunder shall be exercised by the Trustee.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Insurer or the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee, the Insurer or the Bondholders hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or event of default shall impair any such right or power or shall be construed to be a waiver of any such default or event of default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or event of default hereunder, whether by the Trustee, the Insurer or the Bondholders shall extend to or shall affect any subsequent default or event of default shall impair any rights or remedies consequent thereon.

SECTION 1005. Rights of Bondholders and Insurer to Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, the holders of a majority in aggregate principal amount of Bonds then outstanding (determined in accordance with the provisions of Section 401 hereof) shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection



with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture; and provided further, that during such time as payment is being made by the Insurer in accordance with, and pursuant to, the Policy, the Insurer shall have the right to direct the proceedings as herein provided.

SECTION 1006. Appointment of Receivers. Upon the occurrence of an event of default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondholders or the bearers of the coupons under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Mortgaged Property and of the rents, revenues, issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

SECTION 1007. Foreclosure of Indenture. Upon the occurrence of an event of default, to the extent that such right may then lawfully be waived, neither the County, nor anyone claiming through or under it, shall set up, claim, or seek to take advantage of any appraisement, valuation, stay, extension or redemption laws now or hereinafter in force, in order to prevent or hinder the enforcement of the Indenture or the foreclosure of the Indenture, and the County, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisement and redemption to which it may be entitled under the laws of South Carolina.

SECTION 1008. Application of Moneys. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment

of the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee, be deposited in the Bond Fund and all moneys in the Bond Fund shall be applied as follows:

(a) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

First--To the payment to the persons entitled thereto (including the Insurer with respect to any payments made by the Insurer pursuant to the Policy applicable to interest) of all installments of interest then due on the Bonds (including amounts previously paid by the Insurer pursuant to the Policy applicable to interest), in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege; and

Second--To the payment to the persons entitled thereto (including the Insurer with respect to any payments made by the Insurer pursuant to the Policy applicable to principal) of the unpaid principal of and premium, if any, on any of the Bonds (including amounts previously paid by the Insurer pursuant to the Policy applicable to principal) which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full principal of and premium if any, on the Bonds due on any particular date, then to the payment ratably, according to the amount of the principal and premium, if any, due

on such date, to the persons entitled thereto without any discrimination or privilege; and

Third--To the payment to the persons entitled thereto of interest at the penalty rate on all past due installments of principal and interest from their respective due dates and, if the amount available shall not be sufficient to pay in full the whole amount of interest so due, then to the payment ratably, according to the amount of interest then due, to the persons entitled thereto without any discrimination or privilege and without any distinction between interest on past due interest and interest on past due principal.

(b) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied in the following order of priority:

1. to the payment of the principal and interest on the Bonds;

2. to the reimbursement of the Insurer of such amounts as shall have been paid by the Insurer pursuant to the Policy (the amount of such payments to be certified in writing by the Insurer to the Trustee);

3. to the payment to the persons entitled thereto of interest at the Penalty Rate provided in the Lease Agreement on all past due installments of principal and interest on the Bonds from their respective due dates;

4. to the payment of a redemption premium of 5% on each of the Bonds;

5. any balance remaining shall be paid to the Lessee or its successors or assigns.

(c) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article then, subject to the provisions of paragraph (b) of this Section in the event that the principal of all the Bonds shall later become



due or be declared due and payable, the moneys shall be applied in accordance with the provisions of paragraph (a) of this Section.

Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of such moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts so to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the bearer of any unpaid coupon or the holder of any Bond until such coupon or such Bond and all unmatured coupons, if any, appertaining to such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever all principal of, premium, if any, and interest on all Bonds have been paid under the provisions of this Section 1008 and all expenses and charges of the Trustee shall have been paid, any balance remaining in the Bond Fund shall be paid to the Lessee as provided in Section 510 hereof.

SECTION 1009. Remedies Vested in Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Bonds or coupons may be enforced by the Trustee without the possession of any of the Bonds or coupons or the production thereof in any trial or

other proceedings relating thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any holders of the Bonds or bearers of coupons, and any recovery of judgment shall be for the equal benefit of the holders of the outstanding Bonds and the bearers of the outstanding coupons.

SECTION 1010. Rights and Remedies of Bondholders and Insurer. No holder or bearer of any Bond or coupon, as the case may be, shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless also a default has occurred of which the Trustee has been notified as provided in subsection (g) of Section 1101, or of which by said subsection it is deemed to have notice, nor unless also such default shall have become an event of default and the holders of at least twenty-five per cent in aggregate principal amount of Bonds then outstanding (or the Insurer, if the Insurer is making payments pursuant to the Policy) shall have made written request to the Trustee and shall have offered reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, nor unless also they have offered to the Trustee indemnity as provided in Section 1101(1) nor unless the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its, his or their own name or names; and such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers

and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more holders or bearers of the Bonds or coupons shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the holders of all Bonds and the bearers of all coupons then outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondholder to enforce the payment of the principal of, premium, if any, and interest of any Bond at and after the maturity thereof, or the obligation of the County to pay the principal of, premium, if any, and interest on each of the Bonds issued hereunder to the respective holders thereof and to the bearers of the coupons at the time, place, from the source and in the manner in said Bonds and the coupons expressed.

SECTION 1011. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the County and the Trustee shall be restored to their former positions and rights hereunder with respect to the Mortgaged Property herein conveyed, and all rights and remedies and powers of the Trustee shall continue as if no such proceedings had been taken.



SECTION 1012. Waivers of Events of Default. The Trustee shall waive any event of default hereunder and its consequences and rescind any declaration of maturity of principal of and interest on the Bonds upon the written request of the holders of a majority in aggregate principal amount of all Bonds then outstanding (but, if payment is being made by the Insurer pursuant to the Policy, only upon the request of the Insurer); provided, however, that there shall not be waived any default in the payment of

(i) the principal of any outstanding Bond (and premium, if any) whether at the stated maturity thereof, or upon proceedings for redemption thereof; or

(ii) any interest when due on any Bond, unless prior to such waiver or rescission, all arrears of payments of principal then due (whether at the stated maturity thereof or upon proceedings for redemption) and premium, if any, and interest on all such arrears at the rate prescribed by the last paragraph 5.3 of the Lease Agreement on such arrears, and all expenses of the Trustee in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the County, Trustee and Bondholders and bearers of coupons shall be restored to their former positions and rights hereunder respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

SECTION 1013. Notice of Defaults; Opportunity of the County and Lessee to Cure Defaults. No default under Section 1001 (b) hereof shall constitute an event of default until actual notice of such default by registered or certified mail shall be given by the Trustee or by the holders of not less than twenty-five per cent of the aggregate principal amount of Bonds then outstanding (or by the Insurer, if the Insurer is making payments pursuant to the Policy) to the Lessee and the County, and the County and the Lessee shall have had thirty days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within the applicable period; provided, however, if said default be such that it cannot be corrected within the applicable period, it shall not constitute an event of default if corrective action is instituted by the Lessee or the County as the case may be, within the applicable period and diligently pursued until the default is corrected.

With regard to any alleged default concerning which notice is given to the Lessee under the provisions of this Section 1013, the County hereby grants the Lessee full authority for account of the County to perform any covenant or obligation alleged in said notice to constitute a default, in the name and stead of the County with full power to do any and all things and acts to the same extent that the County could do and perform any such things and acts and with power of substitution.

In the event that the Trustee fails to receive any payment required by Section 5.3 of the Lease Agreement on the occasion prescribed therein, the Trustee shall forthwith give notice by telegram, or if telegraphic service is not available then by mail to the Lessee specifying such failure; such notice shall also be given to the Guarantor, the Insurer and the Original Purchaser.

SECTION 1014. Powers of Trustee upon Event of Default under Lease Agreement or in Payment of Bonds. If any payment required to be paid under Section 5.3 of the Lease Agreement

is not paid on the occasion therein prescribed, or in case of an event of default, as defined in Section 1001 hereof in the payment of principal of, premium, if any, or interest on any Bonds shall occur and be continuing, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of all sums due and unpaid under the Lease Agreement or the Bonds, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against any obligor thereon, and collect in the manner provided by law out of the property of any obligor thereon wherever situated the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of any obligor under the Lease Agreement under the National Bankruptcy Act or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of any such obligor, or in case any other judicial proceedings relative to any obligor under the Lease Agreement, or to the creditors or property of any such obligor, the Trustee, irrespective of whether the principal of the Bonds shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the power vested in it by the Indenture, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation



to the Trustee, its agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its negligence or bad faith) and of the Bondholders allowed in any such judicial proceedings relative to the Lessee or any other obligor under the Lease Agreement or to the creditors or property of the Lessee, or any such other obligor, as the case may be, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Bondholders and of the Trustee on their behalf; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the Bondholders to make payments to the Trustee and, in the event that the Trustee shall consent to the making of payments directly to the Bondholders, to pay to the Trustee such amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its negligence or bad faith.

In case of a default hereunder the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or enforceable by the Trustee by reason of this Indenture, or in aid of the exercise of any power or right granted by this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

SECTION 1015. Purchase of Project by Insurer or Related

Person. In the event the Insurer or any "related person" (as such term is defined in Section 103(c)(6)(C) of the Internal Revenue Code of 1954, as amended) shall purchase the Project at a sale resulting from the foreclosure of the mortgage lien of this Indenture, the net proceeds from any subsequent resale or re-renting of the Project, after deducting the expenses of such resale or re-renting (such net proceeds to be established by a certificate of independent public accountants acceptable to the Trustee) shall be paid over to the Trustee for deposit in the Bond Fund and disbursed in accordance with the provisions of Section 1008(b) of this Indenture. The net proceeds from any resale of the Project shall be deposited with the Trustee not later than thirty (30) days after such resale; the net proceeds from any re-renting of the project shall be remitted to the Trust on or before December 31 of each year during the term of such re-renting.

Upon the conveyance of the Project to the Insurer or such related person, pursuant to a foreclosure of the lien of this Indenture, the purchaser shall acknowledge receipt of notice of the provisions herein contained and shall agree in writing to comply therewith.

The Trustee shall exercise its best efforts to compile and retain a list of the Bondholders entitled to receive any net proceeds received by the Trustee pursuant to this Section.

The provisions of this Section 1015 shall terminate on December 1, 2003, or such earlier date as the Insurer shall resell the Project and the moneys from such resale shall be disbursed in accordance with the provisions hereof.

ARTICLE XI

THE TRUSTEE

SECTION 1101. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees, and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may be reasonably employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for the County or the Lessee). The Trustee shall not be responsible for any loss or damage resulting from any action or non-action in good faith in reliance upon such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein, or in the Bonds (except in respect to the authentication certificate of the Trustee endorsed on the Bonds), or for insuring the property conveyed hereby, or for collecting any insurance moneys, or for the validity of the execution by the County of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value or title of the property conveyed hereby or



otherwise as to the maintenance of the security hereof; except that in the event the Trustee enters into possession of a part or all of the property conveyed hereby pursuant to any provision of this Indenture it shall use due diligence in preserving such property; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the County or on the part of the Lessee under the Lease Agreement, except as herein expressly set forth; but the Trustee may require of the County or the Lessee full information and advice as to the performance of the covenants, conditions and agreements aforesaid and as to the condition of the property conveyed hereby. Except as otherwise provided in Section 1003 hereof, the Trustee shall have no obligation to perform any of the duties or obligations of the County, as lessor, under the Lease Agreement.

(c) The Trustee shall not be accountable for the use of the proceeds from the sale of the Bonds disbursed in accordance with the provisions of Section 4.2 and 4.3 of the Lease Agreement. The Trustee may become the owner of Bonds and coupons secured hereby with the same rights which it would have if not Trustee.

(d) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram, or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person

who at the time of making such request or giving such authority or consent is the owner of any Bond, shall be conclusive and binding upon all future owners of the same Bond and of Bonds issued in exchange therefor or in place thereof, regardless of whether or not any notation of making such request or giving such authority or consent is made on any such Bond.

(e) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed on behalf of the County Board by its Chairman and attested by its Secretary as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (g) of this Section, or of which by said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of the Secretary of the County Board under its seal to the effect that a resolution in the form therein set forth has been adopted by the County Board as conclusive evidence that such resolution has been duly adopted, and is in full force and effect.

(f) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default.

(g) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except (i) failure by the County to cause to be made any of the payments to the Trustee required to be made by Article V hereof, and (ii) failure by the Lessee to make any of the payments to the Trustee required to be made by Section 5.3 of the Lease Agreement, unless the Trustee shall be specifically notified in writing of such default by the County or by the holders of at least twenty-five per cent in aggregate principal amount of all Bonds then outstanding (or by the Insurer, if the Insurer is making payments pursuant to the Policy) and all notices or other instruments required by this Indenture to be delivered to the Trustee, must, in order to be effective, be delivered at the principal office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no default except as aforesaid.

(h) The Trustee shall not be liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or non-fulfillment of contracts during any period in which it may be in the possession of or managing the Mortgaged Property as in this Indenture provided.

(i) At any and all reasonable times, the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect any and all of the Project, including all books, papers and records of the County pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired; subject to the limitations imposed upon such



rights of inspection pursuant to Section 8.2 of the Lease Agreement.

(j) The Trustee shall not be required to give any bond or surety in respect to the execution of the said trusts and powers or otherwise in respect to the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect to the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals, or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the County to the authentication of any Bonds, the withdrawal of any cash, the release of any property or the taking of any other action by the Trustee.

(l) Before taking any action hereunder the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful default by reason of any action so taken.

(m) All moneys received by the Trustee or paying agent shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other

funds except to the extent required by law or by this Indenture. Neither the Trustee nor paying agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

SECTION 1102. Fees, Charges and Expenses of Trustee.

The Trustee shall be entitled to payment and/or reimbursement for reasonable fees for its Ordinary Services rendered hereunder, and all advances, counsel fees and other Ordinary Expenses reasonably and necessarily made or incurred by the Trustee in connection with such Ordinary Services and, in the event that it should become necessary that the Trustee perform Extraordinary Services, it shall be entitled to reasonable extra compensation therefor, and to reimbursement for reasonable and necessary Extraordinary Expenses in connection therewith; provided, that if such Extraordinary Services or Extraordinary Expenses are occasioned by the neglect or misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Bond Registrar and paying agent for the Bonds and coupons as hereinabove provided. The Trustee shall have a lien with right of payment prior to payment on account of interest or principal of any Bond upon the Project for the foregoing advances, fees, costs and expenses incurred.

SECTION 1103. Notice to Bondholders If Default Occurs.

If a default occurs of which the Trustee is by subsection (g) of Section 1101 hereof required to take notice or if notice of default be given as in said subsection (g) provided, then the Trustee shall give such notice to the Lessee and the County as is specified in Section 1013 hereof, and such notice to the Lessee as is specified in Section 10.1 of the Lease Agreement, in order to have such default mature as an event of default upon the passage of the period of time, if any, therein specified

and shall give written notice thereof by mail to the last known holders or owners of all Bonds then outstanding shown by the list of Bondholders required by the terms of Section 408 hereof to be kept at the office of the Trustee and by the registration books maintained by the Trustee pursuant to Section 208 hereof.

SECTION 1104. Intervention by Trustee. In any judicial proceeding to which the County is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of owners of the Bonds, the Trustee may intervene on behalf of Bondholders and shall do so if requested in writing by the owners of at least twenty-five per cent in aggregate principal amount of all Bonds then outstanding, and if indemnified as provided in Section 1101(1) hereof. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction.

SECTION 1105. Successor Trustee. Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor Trustee hereunder and vested with all of the title to the whole property or trust estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

SECTION 1106. Resignation by the Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving thirty days' written notice



to the County, to the Lessee and by registered or certified mail to each registered owner of Bonds then outstanding and to each holder of Bonds as shown by the list of Bondholders required by Section 408 hereof to be kept at the office of the Trustee, and such resignation shall take effect at the end of such thirty days, or upon the earlier appointment of a successor Trustee by the Bondholders or by the County. Such notice to the County and to the Lessee may be served personally or sent by registered mail.

SECTION 1107. Removal of the Trustee. The Trustee may be removed at any time, by an instrument or concurrent instruments in writing delivered to the Trustee and to the County, and signed by the owners of a majority in aggregate principal amount of all Bonds then outstanding.

SECTION 1108. Appointment of Successor Trustee by the Bondholders; Temporary Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the owners of a majority in aggregate principal amount of Bonds then outstanding, by an instrument or concurrent instruments in writing signed by such owners, or by their attorneys in fact, duly authorized; provided, nevertheless, that in case of vacancy the County by an instrument executed and signed by the Chairman of the County Board and attested by the Secretary of the County Board under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by such Bondholders in the manner

above provided; and any such temporary Trustee so appointed by the County shall immediately and without further act be superseded by the Trustee so appointed by such Bondholders. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank organized under the laws of the United States of America or any state thereof and which is in good standing, within or outside the State of South Carolina, having a reported capital and surplus of not less than \$20,000,000 if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

SECTION 1109. Concerning Any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the County an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the County, or of its successor, and upon payment of all amounts due such predecessor pursuant to Section 1102 hereof, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the County be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor any and

all such instruments in writing, shall, on request, be executed, acknowledged and delivered by the County. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article shall be filed and/or recorded by the successor Trustee in each recording office where the Indenture shall have been filed and/or recorded.

SECTION 1110. Right of Trustee to Pay Taxes and Other Charges. In case any tax, assessment or governmental or other charge upon any part of the property herein conveyed is not paid as required herein, the Trustee may pay such tax, assessment or governmental or other charge, without prejudice, however, to any rights of the Trustee or the Bondholders hereunder arising in consequence of such failure; and any amount at any time so paid under this Section, with interest thereon from the date of payment at the Penalty Rate, shall become so much additional indebtedness secured by this Indenture, and the same shall be given a preference in payment over any of the Bonds, and shall be paid out of the revenues herein pledged to the payment of the Bonds if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the holders of at least twenty-five per cent in the aggregate principal amount of all Bonds then outstanding and shall have been provided with adequate funds for the purpose of such payment.

SECTION 1111. Trustee Protected in Relying Upon Resolutions, etc. The resolutions, opinions, certificates and other instruments provided for in this Indenture may be accepted by the Trustee as conclusive evidence of the facts



and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for the release of property and the withdrawal of cash hereunder.

SECTION 1112. Successor Trustee as Trustee of Bond Fund Construction Fund, Lease Guaranty Insurance Policy Claim Account, Paying Agent and Bond Registrar. In the event of a change in the office of Trustee the predecessor Trustee which has resigned or has been removed shall cease to be trustee of the Bond Fund, the Construction Fund and the Lease Guaranty Insurance Policy Claim Account and paying agent for principal of and interest and premium, if any, on the Bonds and Bond Registrar and the successor Trustee shall become such Trustee, paying agent and Bond Registrar.

SECTION 1113. Trust Estate May Be Vested in Separate or Co-Trustee. It is the intent of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of South Carolina) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease Agreement, and in particular in case of the enforcement of either on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the Mortgaged Property, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate or co-trustee. The following provisions of this Section 1113 are provided for this purpose.

In the event that the Trustee appoints an additional individual or institution as a separate or co-trustee (and

the Trustee is hereby expressly granted such power), each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them.

Should any deed, conveyance or instrument in writing from the County be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances, and instruments in writing shall, on request, be executed, acknowledged and delivered by the County. In case any separate trustee or co-trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

ARTICLE XII

SUPPLEMENTAL INDENTURES

SECTION 1201. Supplemental Indentures Not Requiring Consent of Bondholders. The County and the Trustee may without the consent of, or notice to, any of the Bondholders, enter into an indenture or indentures supplemental to this Indenture as shall not be inconsistent with the terms and provisions hereof for any one or more of the following purpose

(a) to cure any ambiguity or formal defect or omission in this Indenture;

(b) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholders or the Trustee or either of them;

(c) to subject to the lien and pledge of this Indenture additional revenues, properties or collateral;

(d) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar Federal statute hereafter in effect or under any state Blue Sky Law; and

The County and the Trustee shall without the consent of, or notice to, any of the Bondholders enter into an indenture or indentures supplemental to this Indenture (i) to the extent necessary with respect to any real or personal property forming a part of the Project and generally described in the Lease Agreement, so as to more precisely identify the same or to



ARTICLE XII

SUPPLEMENTAL INDENTURES

SECTION 1201. Supplemental Indentures Not Requiring Consent of Bondholders. The County and the Trustee may without the consent of, or notice to, any of the Bondholders, enter into an indenture or indentures supplemental to this Indenture as shall not be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

(a) to cure any ambiguity or formal defect or omission in this Indenture;

(b) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholders or the Trustee or either of them;

(c) to subject to the lien and pledge of this Indenture additional revenues, properties or collateral;

(d) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar Federal statute hereafter in effect or under any state Blue Sky Law;

(e) to make provision for the issuance of Additional Bonds to the extent permitted by Article II hereof; and  
The County and the Trustee shall without the consent of, or notice to, any of the Bondholders enter into an indenture or indentures supplemental to this Indenture (i) to the extent necessary with respect to any real or personal property forming a part of the Project and generally described in the Lease Agreement, so as to more precisely identify the same or to

substitute or add additional land or interests in land, buildings, machinery and equipment, (ii) with respect to any changes required to be made in the description of the Mortgaged Property in order to conform with similar changes made in the Lease Agreement as permitted by Section 1301.

SECTION 1202. Supplemental Indentures Requiring Consent of Bondholders. Exclusive of indentures supplemental hereto covered by Section 1201 hereof and subject to the terms and provisions contained in this Section, and not otherwise, the holders of not less than two-thirds in aggregate principal amount of the Bonds then outstanding and the Insurer shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the County and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the County for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing in this Section contained shall permit, or be construed as permitting

(a) an extension of the stated maturity or reduction of any premium payable on the redemption of, any Bonds, or

(b) the creation of any lien (other than any Permitted Encumbrances as defined in the Lease Agreement), prior to or on a parity with the lien of this Indenture, or

(c) the issuance of Bonds hereunder in excess of the limitations imposed by the provisions of Article II, or

(d) a reduction in the principal amount of any Bonds required to be paid or redeemed by the provisions of this Indenture, or any alteration of the order in which Bonds shall be redeemed pursuant to this Indenture, or

(e) a reduction in the amount, or extension of the time, of any payment required for the Bond Fund, or

(f) a reduction in the aforesaid aggregate principal amount of Bonds the holders of which are required to consent to any such supplemental indenture, or

(g) any amendment of this Section 1202 or Section 1302, without consent of the holders of the Insurer and all the Bonds at the time outstanding which would be affected by the action to be taken, or

(h) the modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee.

If at any time the County shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be published as shall be requested by the County and in any event one time in a newspaper or financial journal of general circulation published in the City of New York, New York, and shall also cause a similar notice to be mailed, postage prepaid, to all registered Bondholders; provided, however, that no publication of such notice shall be required and notice by mail as aforesaid shall be deemed sufficient notice where all Bonds outstanding are registered. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Bondholders. If, within sixty days or such longer period of such notice, the holders of not less than two-thirds in aggregate principal amount of the Bonds outstanding at the time of the execution of any such supplemental indenture shall have consented to



and approved the execution thereof as herein provided, no holder of any Bond and no bearer of any coupon shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the County from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

Anything herein to the contrary notwithstanding, a supplemental indenture under this Article XII which affects any rights of the Lessee shall not become effective unless and until the Lessee shall have consented to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture together with a copy of the proposed supplemental indenture to be mailed by certified or registered mail to the Lessee at least fifteen days prior to the proposed date of execution and delivery of any supplemental indenture. The Lessee shall be deemed to have consented to the execution and delivery of any such supplemental indenture if the Trustee does not receive a letter of protest or objection thereto signed by or on behalf of the Lessee on or before 2:30 o'clock P. M., (Trustee's time) of the fifteenth day after mailing of said notice and a copy of the proposed supplemental indenture. The Trustee may rely upon an opinion of counsel as conclusive evidence that execution and delivery of a supplemental indenture has been effected in compliance with the provisions of this Article XII.

ARTICLE XIII

AMENDMENT OF LEASE AGREEMENT

SECTION 1301. Amendments, etc., to Lease Agreement Not Requiring Consent of Bondholders. The County and the Trustee may without the consent of or notice to the Bondholders consent to any amendment, change or modification of the Lease Agreement as may be required (i) by the provisions of the Lease Agreement and this Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission, (iii) in connection with any real or personal property forming a part of the Project and described in the Lease Agreement so as to identify more precisely the same or substitute or add additional land or interests in land, buildings, machinery and equipment, or (iv) in connection with any other change therein which, in the judgment of the Trustee, is not to the prejudice of the Trustee, or materially adverse to the holders of the Bonds.

SECTION 1302. Amendments, etc., to Lease Agreement Requiring Consent of Bondholders. Except for the amendments, changes or modifications as provided in Section 1301 hereof, and subject to the special limitation contained in the sentence of this Section 1302 immediately following this sentence, the County and the Trustee may consent to other amendments, changes or modifications of the Lease Agreement after notice to and upon the written approval or consent of the holders of not less than two-thirds in aggregate principal amount of the Bonds at the time outstanding given and procured as in Section 1202 hereof provided. Provided, always, that nothing in this Section contained shall permit, or shall be construed as permitting, any amendment, change or modification of

(i) the Lessee's unconditional obligation to make payments sufficient to pay the principal, interest and premium, if any, due at any time on the Bonds, or

(ii) the provisions of Sections 5.3, 5.6, 8.9 or Article XII of the Lease Agreement,

without the consent of the Insurer and the holders of all the Bonds at the time outstanding. If at any time the County and the Lessee shall request the consent of the Trustee to any such proposed amendment change or modification of the Lease Agreement, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided by Section 1202 hereof with respect to supplemental indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the corporate trust office of the Trustee for inspection by all Bondholders. If, within sixty days or such longer period as shall be prescribed by the County following the giving of such notice, the holders of not less than two-thirds in aggregate principal amount of the Bonds outstanding at the time of the execution of such proposed amendment shall have consented to and approved the execution thereof as herein provided, no holder of any Bond and no bearer of any coupon shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the County from consenting to the execution thereof or from taking any action pursuant to the provisions thereof. Upon the execution of any such amendment as in this Section permitted and provided, the Lease Agreement shall be and be deemed to be modified and amended in accordance therewith.



ARTICLE XIV

MISCELLANEOUS

SECTION 1401. Consents, etc., of Bondholders. Any consent, request, direction, approval, waiver, objection or other instrument authorized or permitted by this Indenture to be signed and executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent authorized in writing. Proof of the execution of any consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership such affidavit or certificate shall also constitute sufficient proof of his authority.

(b) The amount of Bonds, transferable by delivery held by any person executing any such request, consent or other instrument or writing as a Bondholder, and the

distinguishing numbers of the Bonds held by such person, and the date of his holding the same may be proved by a certificate executed by any trust company, bank, banker, or other depository (wherever situated), showing that at the date therein mentioned such person had on deposit with such depository, or exhibited to it, the Bonds therein described, or such facts may be proved by the certificate or affidavit of the person executing such request, consent or other instrument or writing as a Bondholder, if such certificate or affidavit shall be deemed by the Trustee to be satisfactory. The Trustee and the County may conclusively assume that such ownership continues until written notice to the contrary is served upon the Trustee. The fact and the date of execution of any request, consent, or other instrument and the amount and distinguishing numbers of Bonds held by the person so executing such request, consent or other instrument may also be proved in any other manner which the Trustee may deem sufficient. The Trustee may nevertheless, in its discretion, require further proof in cases where it may deem further proof desirable.

(c) The ownership of registered Bonds shall be proved by the register of such Bonds.

(d) Any request, consent or vote of the holder of any Bond shall bind every future holder of the same Bond and the holder of every Bond issued in exchange therefor or in lieu thereof, regardless of the lack of any notation thereon to such effect, in respect of anything done or suffered to be done by the Trustee or the County in pursuance of such request, consent or vote.

(e) In determining whether the holders of the requisite aggregate principal amount of Bonds have

concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned by the County, by the Lessee, or by any other obligor under the Lease Agreement or on the Bonds, or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with the County, the Lessee, or any other obligor under the Lease Agreement or on the Bonds, shall be disregarded and deemed not to be outstanding for the purpose of any such determination, provided that for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver only Bonds which the Trustee knows to be so owned shall be disregarded. Bonds so owned which have been pledged in good faith may be regarded as outstanding for the purposes of this Section 1401 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by or under common control with the County, the Lessee or any other obligor under the Lease Agreement or on the Bonds. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

SECTION 1402. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person or company other than the parties hereto, and the holders of the Bonds and the bearers of coupons appertaining thereto,



any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the holders of the Bonds and coupons as herein provided.

SECTION 1403. Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any Constitution or statute or rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or sections in this Indenture contained, shall not affect the remaining portions of this Indenture, or any part thereof.

SECTION 1404. Trustee as Paying Agent and Registrar. The Trustee is hereby designated and agrees to act as a paying agent and the Bond Registrar for and in respect to the Bonds.

SECTION 1405. Payments Due on Saturdays, Sundays and Holidays. In any case where the date of maturity of interest on or principal of the Bonds or the date fixed for redemption of any Bonds shall be a Saturday, Sunday or shall be in the state in which the Trustee maintains its principal office a legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or

principal (and premium, if any) need not be made on such date in such city but may be made on the next succeeding business day not a Saturday, Sunday or a legal holiday or a day upon which banking institutions are authorized by law to close with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

SECTION 1406. Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 1407. Laws Governing Indenture and Situs and Administration of Trust. The effect and meaning of this Indenture and the rights of all parties hereunder shall be governed by, and construed according to, the laws of the State of South Carolina, but it is the intention of the County that the situs of the trust created by this Indenture to be in the state in which is located the corporate trust officer of the Trustee from time to time acting under this Indenture. The word "Trustee" as used in the preceding sentence shall not be deemed to include any additional individual or institution appointed as a separate or co-trustee pursuant to Section 1113 of this Indenture. It is the further intention of the County that the Trustee administer said trust in the state in which is located, from time to time, the situs of said trust.

or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, or given when dispatched by telegram when telegraphic notice is permitted by express provisions of this Agreement, addressed as follows: if to the County, to the Board of Commissioners of Aiken County, Aiken County Courthouse, Aiken, South Carolina; if to the Lessee at

\_\_\_\_\_, Attention:

\_\_\_\_\_; if to the Trustee, \_\_\_\_\_

\_\_\_\_\_, Aiken, South Carolina, Attention:

Corporate Trust Department; if to the Guarantor, at \_\_\_\_\_

\_\_\_\_\_, Attention: \_\_\_\_\_; if to the

Insurer at MGIC Plaza, Milwaukee, Wisconsin, 5320. The

County, the Lessee, the Trustee, the Guarantor and the Insurer may, by notice given to all parties to this Agreement and the Indenture, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

IN WITNESS WHEREOF, AIKEN COUNTY has caused these presents to be signed in its name and behalf by the Chairman of the Board of Commissioners of Aiken County, and its corporate seal to be hereunto affixed and attested by the Clerk of the Board of Commissioners of Aiken County and to evidence its acceptance of the trusts hereby created, FARMERS & MERCHANTS BANK has caused these presents to be signed in its name and behalf by one of its Trust Officers, its official seal to be hereunto affixed, and the same to be attested by one of its Assistant Trust Officers, all as of the day and year first hereinabove written.

By \_\_\_\_\_  
Chairman, Board of Commissioners  
of Aiken County

Attest:

\_\_\_\_\_  
Clerk, Board of Commissioners of  
Aiken County

In the presence of:

\_\_\_\_\_  
\_\_\_\_\_



FARMERS & MERCHANTS BANK  
as Trustee

By \_\_\_\_\_  
Its Trust Officer

Attest:

\_\_\_\_\_  
Its Assistant Trust Officer

In the presence of:

\_\_\_\_\_  
\_\_\_\_\_

STATE OF SOUTH CAROLINA,  
COUNTY OF AIKEN.

PERSONALLY appeared before me \_\_\_\_\_  
who being duly sworn says that (s)he saw the corporate seal of  
AIKEN COUNTY, South Carolina, affixed to the foregoing Trust  
Indenture, and that (s)he also saw \_\_\_\_\_,  
as Chairman of the Aiken County Board of Commissioners of  
Aiken, South Carolina, and \_\_\_\_\_, as  
Secretary of the Aiken County Board of Commissioners of Aiken  
County, South Carolina sign and attest the same and that (s)he  
with \_\_\_\_\_ witnessed the execution and  
delivery thereof as the act and deed of the said Aiken County,  
South Carolina.

\_\_\_\_\_

SWORN to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, A. D. 1973.

\_\_\_\_\_(LS)  
Notary Public for South Carolina

My Commission Expires \_\_\_\_\_.

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

PERSONALLY appeared before me \_\_\_\_\_  
who being duly sworn says that (s)he saw the corporate seal of  
Farmers & Merchants Bank, as Trustee, affixed to the foregoing  
Trust Indenture, and that (s)he also saw \_\_\_\_\_,  
as a Trust Officer, and \_\_\_\_\_, as an  
Assistant Trust Officer, sign and attest the same, and that  
(s)he with \_\_\_\_\_ witnessed the execution  
and delivery thereof as the act and deed of the said Farmers &  
Merchants Bank, as Trustee.

\_\_\_\_\_

SWORN to before me this

\_\_\_\_\_ day of \_\_\_\_\_, A. D. 1973.

\_\_\_\_\_  
(L.S.)  
Notary Public for \_\_\_\_\_  
My Commission Expires \_\_\_\_\_



EXHIBIT "A"

DESCRIPTION OF LEASED LAND

(Attached to Trust Indenture dated as of June 1, 1973, between Aiken County, South Carolina, and Farmers & Merchants Bank, as Trustee)

(FORM OF BOND)

UNITED STATES OF AMERICA

STATE OF SOUTH CAROLINA

AIKEN COUNTY

FIRST MORTGAGE INDUSTRIAL REVENUE BOND, SERIES 1973

(TILBURY ASSOCIATES, A JOINT VENTURE - LESSEE)

Number \_\_\_\_\_ \$5,000.00

KNOW ALL MEN BY THESE PRESENTS that Aiken County, a body politic and corporate, and a political subdivision of the State of South Carolina (hereinafter called the "County"), for value received promises to pay, but only from the source and as hereinafter provided, to bearer, or, if this Bond be registered, to the registered holder hereof, on December 1, 19\_\_\_\_, the principal sum of Five Thousand Dollars and in like manner to pay interest on said sum from the date hereof at the rate of

\_\_\_\_\_ per centum (\_\_\_\_%) per annum on December 1, 1973, and semiannually thereafter on June 1 and December 1 of each year until said principal sum is paid, except as the provisions hereinafter set forth with respect to redemption prior to maturity may become applicable hereto, principal of, premium, if any, and interest on this Bond being payable in lawful money of the United States of America at the principal office of Farmers & Merchants Bank, in the City of Aiken, State of South Carolina, or its successor in trust.

This Bond is one of an authorized issue of Bonds in the aggregate principal amount of \$600,000 (hereinafter called the "Bonds") issued for the purpose of financing the acquisition and construction of warehousing and distribution of facilities and leasing the same to Tilbury Associates, a joint venture organized and existing under the laws of the State of New York (hereinafter called the "Lessee") (said land and buildings comprising such industrial facilities hereinafter called the "Project") so as to thereby promote industry and develop trade in South Carolina. The Bonds are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture

(hereinafter called the "Indenture"), dated as of June 1, 1973, duly executed and delivered by the County to Farmers & Merchants Bank, Aiken, South Carolina, as Trustee (the term "Trustee" where used herein referring collectively to said Trustee or its successors in said trust). The Project has been leased to the Lessee under and pursuant to a Lease Agreement between the County and the Lessee dated as of June 1, 1973 (hereinafter called the "Lease Agreement"). Under the Lease Agreement the Lessee must pay to the County such rentals as will be fully sufficient to pay the principal of, premium, if any, and interest on the Bonds as the same mature and become due and, under the Lease Agreement it is the obligation of the Lessee to pay the cost of maintaining the Project in good repair and to keep it properly insured. The obligations of the Lessee under the Lease Agreement, including the obligation to make rental and other payments, have been unconditionally guaranteed by Tilbury Fabrics, Inc., a New York corporation (hereinafter called the "Guarantor"), under the terms of a Guaranty Agreement among Tilbury Fabrics, Inc., the County and the Trustee dated as of June 1, 1973 (hereinafter called the "Guaranty Agreement"). In addition, payment of rentals under the Lease Agreement in an amount sufficient to pay principal of and interest on the Bonds will, upon completion of construction of the Project, be insured pursuant to a policy of insurance (hereinafter called the "Policy") issued by Commercial Loan Insurance Corporation. Copies of the Indenture, the Lease Agreement, the Guaranty Agreement and the Policy are on file at the principal office of the Trustee in the City of Aiken, State of South Carolina, and are recorded in the office of the Clerk of Court for Aiken County, South Carolina, and reference is made to the Indenture, the Lease Agreement, the Guaranty Agreement and the Policy for a description of the security, the provisions, among others, with respect to the nature and extent of the security, the charging and collection of rentals for the Project, the rights and remedies of the



holders of the Bonds and the coupons appertaining thereto, the rights, duties and obligations of the County, the Lessee, the Guarantor, the Trustee and the Insurer and the terms upon which the Bonds are issued and secured.

This Bond and appurtenant coupons are fully negotiable and shall pass by delivery, but this Bond may be registered as to principal only on the registration books of the County in said principal office of the Trustee as Bond Registrar, upon presentation hereof at such office and the notation of such registration endorsed hereon by the Bond Registrar, and this Bond may thereafter be transferred on such books at the written request of the registered holder or by his legal representative, evidence of such transfer to be in like manner endorsed hereon. Such transfer may be to bearer, and thereby transferability by delivery shall be restored, subject, however, to successive registrations and transfers as before. The principal of this Bond, if registered, unless registered to bearer, shall be payable only to or upon the order of the registered holder or his legal representative. Interest accruing on this Bond will be paid only on presentation and surrender of the attached interest coupons as they respectively become due, and registration of this Bond as to principal as aforesaid will not affect the transferability by delivery of such coupons; provided, that if upon registration of this Bond, or at any time thereafter while this Bond be registered in the name of the holder, the unmatured coupons attached evidencing interest to be thereafter paid hereon shall be surrendered to said Bond Registrar, a statement to that effect will be endorsed hereon by the Bond Registrar and thereafter interest evidenced by such surrendered coupons will be paid by check or draft by the Bond Registrar at the times provided herein to the registered holder of this Bond by mail to the address shown on the registration books. This Bond when so converted into a Bond registered as to both principal and interest may be reconverted into a coupon Bond at the written request of the registered holder and upon presentation at the office of said

Bond Registrar. Upon such reconversion the coupons representing the interest to become due thereafter to the date of maturity will again be attached to this Bond and a statement will be endorsed thereon by the Bond Registrar in the registration blank on the back of this Bond as to whether it is then registered as to principal alone or payable to bearer.

The Bonds are noncallable for redemption prior to December 1, 1983, except in the event of exercise by the Lessee of its option to purchase the Project as provided in Section 11.2 of the Lease Agreement. If called for redemption in such event, the Bonds are subject to redemption by the County on any date after due notice as provided in the Indenture, whether or not such date is an interest payment date, in whole and not in part, at the redemption prices (expressed as percentages of principal amount) set forth in the table below plus accrued interest to the redemption date:

<u>Redemption Date</u> <u>(dates inclusive)</u>	<u>Redemption Price</u>
June 1, 1973 to May 31, 1975	103.00%
June 1, 1975 to May 31, 1977	102.50
June 1, 1977 to May 31, 1979	102.00
June 1, 1979 to May 31, 1981	101.50
June 1, 1981 to May 31, 1982	101.00
June 1, 1982 and thereafter	100.00

The Bonds maturing December 1, 1984 and thereafter are also subject to redemption by the County prior to maturity on December 1, 1983 or any interest payment date thereafter, in whole or in part (but if in part in inverse numerical order) at the redemption prices (expressed as percentages of principal amount) set forth in the table below, plus accrued interest to the redemption date:

<u>Redemption Dates</u> <u>(dates inclusive)</u>	<u>Redemption Price</u>
December 1, 1983 to December 1, 1988	104.00%
June 1 and December 1, 1989	103.50
June 1 and December 1, 1990	103.00
June 1 and December 1, 1991	102.00
June 1 and December 1, 1992	101.00
June 1, 1993	100.00



In the event any of the Bonds are called for redemption as aforesaid, notice thereof specifying the Bonds to be redeemed shall be given by publication not less than thirty days and not more than sixty days prior to the redemption date in a newspaper or financial journal of general circulation published in the City of New York, New York, and in the case of the redemption of registered Bonds, upon mailing a copy of the redemption notice by first class mail at least thirty days prior to the date fixed for redemption to the holder of each registered Bond to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings for the redemption of Bonds. If all of the Bonds to be redeemed are registered Bonds, notice by mailing given by first class mail to the holder or holders thereof, at the addresses shown on the registration books, not less than thirty days prior to the date fixed for redemption as aforesaid shall be sufficient, and published notice of the call for redemption need not be given, and failure duly to give such notice by mailing, or any defect in the notice, to the holder of any registered Bond designated for redemption shall not affect the validity of the proceedings for the redemption of any other Bond. All Bonds so called for redemption will cease to bear interest on the specified redemption date, provided funds for their redemption are on deposit with the Trustee and shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture. If, because of the temporary or permanent suspension of the publication or general circulation of any newspaper or financial journal or for any other reason, it is impossible or impractical to publish such notice of call for redemption in the manner herein provided, then such publication in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient publication of notice.



This Bond and the issue of which it forms a part are issued pursuant to the authorization of and for the purposes prescribed by Act No. 103 of the Acts and Joint Resolutions enacted at the 1967 Session of the General Assembly of the State of South Carolina, as amended, and pursuant to resolutions duly adopted by the Board of Commissioners of Aiken County and with the approval of the State Budget and Control Board of South Carolina. This Bond and the issue of which it forms a part and the interest coupons appertaining hereto are limited obligations of the County and are payable solely out of the Lease Rentals (as defined in the Lease Agreement), derived from the leasing or sale of the Project, which has been financed through the issuance of the Bonds and leased to the Lessee.

This Bond and the interest coupons appertaining hereto, are not and shall never constitute an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

Pursuant to the Lease Agreement, rental payments sufficient for the prompt payment when due of the principal of, premium, if any, and interest on the Bonds are to be paid by the Lessee to the Trustee for the account of the County and deposited in a special account created by the County and designated "Aiken County Industrial Revenue Bond Fund--Tilbury Project" and have been pledged for that purpose, and in addition the Project has been subjected to the lien of the Indenture to secure payment of such principal and interest and premium.

The holder of this Bond and the bearers of the coupons appertaining hereto shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all of the Bonds then outstanding may become

or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of the Indenture, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law; and that the issuance of this Bond and the issue of which it forms a part, together with all other obligations of the County, does not exceed or violate any constitutional or statutory limitation.

This Bond and the interest coupons appertaining hereto shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Trustee's certificate of authentication hereon shall have been duly executed by the Trustee.

IN WITNESS WHEREOF, Aiken County, South Carolina, has caused this Bond to be executed by the Chairman of the Board of Commissioners of Aiken County, by his facsimile signature, and its corporate seal to be impressed or reproduced hereon, and attested by the Clerk of its said Board of Commissioners of Aiken County, by his manual signature, and has caused the interest coupons attached to be executed by the facsimile signatures of said Chairman and said Clerk, all as of the 1st day of June, 1973.

AIKEN COUNTY, SOUTH CAROLINA

(SEAL)

By \_\_\_\_\_  
Chairman, Board of Commissioners of  
Aiken County.

Attest:

\_\_\_\_\_  
Clerk, Board of Commissioners  
of Aiken County



This Bond is one of the Bonds of the issue described in the within mentioned Indenture.

FARMERS & MERCHANTS BANK, as Trustee

By \_\_\_\_\_  
Authorized Signature

CERTIFICATE OF REGISTRATION

(There must be no writing in the space below except by the Bond Registrar)

Date of Registration	Name of Registered Holder	Manner of Registration	Signature of Bond Registrar
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(FORM OF INTEREST COUPON)

No. \_\_\_\_\_ \$ \_\_\_\_\_

On the first day of December, 1973, Aiken County, South Carolina (unless the Bond to which this coupon appertains shall have been duly called for previous redemption and payment of the redemption price made or provided for) will pay to bearer, subject to the provisions of the Indenture, but solely from the lease rentals, revenues and receipts pledged therefor, all as described in the Bond hereinafter mentioned, and upon presentation and surrender of this coupon at the principal office of the Trustee, Farmers & Merchants Bank, in the City of Aiken, State of South Carolina, or its successor in trust, the amount shown hereon in lawful money of the United States of America, as provided in and being semi-annual interest then due on its First Mortgage Industrial Revenue Bond, Series 1973 (Tilbury Associates, A Joint Venture - Lessee), dated as of June 1, 1973, Numbered \_\_\_\_\_.

\_\_\_\_\_  
Chairman, Board of Commissioners of  
Aiken County

\_\_\_\_\_  
Clerk, Board of Commissioners of  
Aiken County



*Original*

SINKLER GIBBS SIMONS & GUÉRARD  
ATTORNEYS & COUNSELLORS AT LAW  
PROFESSIONAL ASSOCIATION

HUGER SINKLER  
CHARLES H. GIBBS  
ALBERT SIMONS, JR.  
THEODORE B. GUÉRARD  
G. DANA SINKLER  
THOMAS G. BUIST  
XXXXXXXXXX

THOMAS A. HUTCHESON  
ROBERT H. HOOD  
CHARLES F. AILSTOCK  
M. WILLIAM YOUNGBLOOD, JR.

2 PRIOLEAU STREET

CHARLESTON, S. C. 29402

POST OFFICE BOX 340

TELEPHONE 722-3366  
AREA CODE 803

August 9, 1973

Mr. Dwight Lacy, Assistant Treasurer  
Emery Industries, Inc.  
4300 Carew Tower  
Cincinnati, Ohio 45202

Dear Dwight:

Re: \$1,000,000 Greenville County, South Carolina,  
First Mortgage Industrial Revenue Notes, Series  
1973 (Emery Industries, Inc. - Lessee)

The issuance of the captioned bonds must be approved by the State Budget and Control Board which regularly meets on the first Tuesday of each month. In that connection it will be necessary to provide the State Board with financial information relating to Emery Industries and I would suggest that you forward financial statements for each of the last three years directly to the State Auditor at the address shown below with the request that he advise you of any additional information he may need. The State Auditor should receive this information at least two weeks prior to the meeting of the State Board at which this matter will be considered.

Very truly yours,

*Perry*

TBG:mbd

cc: ✓ Honorable P. C. Smith  
State Auditor  
Post Office Box 11333  
Columbia, South Carolina 29211

E. P. Riley, Esq.  
Messrs. Riley & Riley  
Post Office Box 10084  
Greenville, South Carolina 29603

*Continued*

**Riley & Riley**  
Attorneys & Counsellors at Law

218 HENRIETTA STREET

MAILING ADDRESS:

P. O. BOX 10084

Greenville, South Carolina 29603

TELEPHONE 242-6624

EDWARD P. RILEY  
EDWARD P. RILEY, JR.  
RICHARD W. RILEY

HUBERT E. YARBOROUGH III

SIMPSONVILLE OFFICE:  
111 E. CURTIS STREET  
SIMPSONVILLE, S. C. 29681  
TELEPHONE 963-4581

September 21, 1973

Honorable P. C. Smith  
South Carolina State Auditor  
Post Office Box 11333  
Columbia, South Carolina 29211

Re: Industrial Revenue Note and Mortgage,  
Emery Industries, Inc. in Greenville  
County.

---

Dear Pat:

I enclose herewith Petition of Greenville County Council in connection with the above matter. It will be appreciated if you will present it to the next meeting of the State Budget and Control Board.

Teddy Guerard of Charleston should be contacting you concerning this matter and further, you should be receiving a financial statement from Emery Industries, Inc., within the near future if you have not already done so.

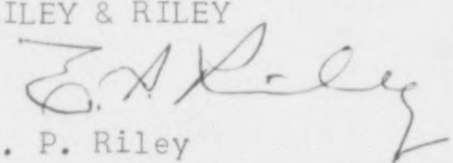
If there is anything further you need, please call me collect.

Your usual fine cooperation is greatly appreciated.

Best personal regards.

Yours very truly,

RILEY & RILEY

  
E. P. Riley

EPR/js

Encls.

cc: Theodore B. Guerard, Esq.  
Sinkler, Gibbs, Simons & Guerard  
Attorneys at Law  
P. O. Box 340  
Charleston, South Carolina 29402

2075

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE.

TO THE STATE BUDGET AND CONTROL

BOARD OF SOUTH CAROLINA

P E T I T I O N

The Petition of the Greenville County Council (the County Board), pursuant to Act No. 103 of the Acts of the General Assembly of the State of South Carolina for the year 1967, as amended, respectfully shows:

1. The County Board is the governing body of Greenville County as established under Chapter 39, Title 14, South Carolina Code of Laws, 1962, as amended, and as such it is the "County Board" referred to in Act No. 103 of the South Carolina General Assembly enacted at its 1967 Session, as amended (the Act).

2. The Act authorizes and empowers the County Board if it shall comply with the provisions set forth in the Act, to acquire land, buildings, equipment and machinery and other improvements deemed necessary, suitable and useful by any manufacturing or processing enterprise, and any enlargement, expansion or improvement of any existing enterprise; to lease the same; and to finance the acquisition of the same through the issuance of bonds payable from and secured by a pledge of the revenues to be derived from the leasing of such land, buildings, equipment and machinery and other improvements.

3. The County Board has agreed with Emery Industries, Inc., an Ohio corporation (the Lessee), that the County Board will undertake to finance the improvement and enlargement of the Lessee's chemical plant located in Greenville County by the Lessee through the issuance of Industrial Revenue Bonds pursuant to the Act. In this connection the County Board has agreed to accept a conveyance of the parcel of land on which the said improvement and enlargement is to be located (said improvement and enlargement, together with the tract of



land on which the same is located, being hereinafter referred to as the Project), and the County Board has agreed to issue One Million Dollars (\$1,000,000) Greenville County First Mortgage Industrial Revenue Bonds, Series 1973 (Emery Industries, Inc. - Lessee) pursuant to the Act in order to finance the improvement and enlargement of the Project.

4. The County Board is advised by the Lessee that the cost of the improvement and enlargement of the Project is estimated to be in excess of \$1,000,000, and the Lessee will provide all funds required in excess of \$1,000,000 from its own funds; and that, therefore, in order to finance the Project, including the costs and charges incident to the issuance and sale of the bonds hereinafter described, it will be necessary that the County Board issue One Million Dollars (\$1,000,000) Greenville County First Mortgage Industrial Revenue Bonds, Series 1973 (Emery Industries, Inc. - Lessee) (the Bonds).

5. When the Project is complete, it will provide permanent employment for an additional 12 persons.

6. For the reasons above set forth and hereafter disclosed, the County Board has found:

(a) The proposed Project will subserve the purposes of the Act.

(b) By reason of undertaking the Project no pecuniary liability will result to the County nor will there be a charge against its general credit or taxing power.

(c) The proposed Lease between the County Board and the Lessee will unconditionally obligate the Lessee to pay rent in an amount adequate to provide for the principal and interest payments on the Bonds which mature and bear interest as follows:

3.

<u>September 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1976	\$ 50,000	4.65% plus 1/2
1977	50,000	of the difference
1978	100,000	between 6.50%
1979	150,000	and prime
1980	300,000	
1981	350,000	

(d) The Lessee is a corporation with a well established credit and, therefore, it is unnecessary to establish reserve funds for the payment of such principal and interest.

(e) The terms of the Lease will require the Lessee to carry proper insurance and to pay all costs of maintaining the Project in good repair.

7. Pursuant to Section 14 of the Act, the County Board sets forth the following information:

(a) The Project to be undertaken consists of the improvements and enlargements which will be necessary for, and part of, the Lessee's chemical plant located in Greenville County.

(b) The Project will provide permanent employment for an additional 12 persons. It is, therefore, believed that the Project will have an extremely beneficial effect upon the economy of the County and areas adjacent thereto.

(c) The cost of the Project is approximately One Million Three Hundred Thousand Dollars (\$1,300,000) including financing costs and all other expenses to be incurred in connection therewith.

8. The proposed Lease will provide, among other things, the following:

(a) To finance the cost of the Project, the County will issue \$1,000,000 of Greenville County First Mortgage Industrial Revenue Bonds, Series 1973 (Emery Industries, Inc. - Lessee). The Bonds will be issued in the form of a single note payable to the order of Morgan Guaranty and Trust Company of New York, and will be secured by a pledge

3.

<u>September 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1976	\$ 50,000	4.65% plus 1/2
1977	50,000	of the difference
1978	100,000	between 6.50%
1979	150,000	and prime
1980	300,000	
1981	350,000	

(d) The Lessee is a corporation with a well established credit and, therefore, it is unnecessary to establish reserve funds for the payment of such principal and interest.

(e) The terms of the Lease will require the Lessee to carry proper insurance and to pay all costs of maintaining the Project in good repair.

7. Pursuant to Section 14 of the Act, the County Board sets forth the following information:

(a) The Project to be undertaken consists of the improvements and enlargements which will be necessary for, and part of, the Lessee's chemical plant located in Greenville County.

(b) The Project will provide permanent employment for an additional 12 persons. It is, therefore, believed that the Project will have an extremely beneficial effect upon the economy of the County and areas adjacent thereto.

(c) The cost of the Project is approximately One Million Three Hundred Thousand Dollars (\$1,300,000) including financing costs and all other expenses to be incurred in connection therewith.

8. The proposed Lease will provide, among other things, the following:

(a) To finance the cost of the Project, the County will issue \$1,000,000 of Greenville County First Mortgage Industrial Revenue Bonds, Series 1973 (Emery Industries, Inc. - Lessee). The Bonds will be issued in the form of a single note payable to the order of Morgan Guaranty and Trust Company of New York, and will be secured by a pledge



of the rents to be paid by the Lessee and will be further secured by a mortgage, as authorized by Section 5 of the Act, to said Bank.

(b) The proceeds derived from the sale of the Bonds will be deposited in a Construction Fund and will be withdrawn on requisition of the Lessee and the County and applied solely for the payment of costs incident to the Project, and the issuance of the Bonds.

(c) The Lease will contain a specific provision by which the Lessee will unconditionally agree to make payments to Greenville County, to any School District in Greenville County, and to all other political units in which the Project is situated, in lieu of taxes, in such amounts as would result from taxes levied on the Project by Greenville County, by any such School District, and by said political units if the Project were owned by the Lessee, but with appropriate reductions similar to the tax reductions, if any, which would be afforded the Lessee were it the owner of the Project.

(d) The Lease contains no provision imposing any pecuniary liability upon the County or which would create a charge upon its general credit or taxing power.

9. The proposed Lease and the proposed mortgage will be substantially in the form enclosed herein. While changes will be made in the enclosed forms, it is not expected that there will be any changes which will substantially affect the undertaking as now outlined therein.

Upon the basis of the foregoing, the County Board respectfully prays:

That the State Budget and Control Board accept the filing of the Petition presented herewith and that it do, thereafter, and as soon as practicable, make its independent investigation of the Project and the terms and provisions of the Lease and the mortgage, as it deems advisable, and that thereafter, the said State Board make a finding that

5.

the proposed Project will promote the purpose of the Act and that it is reasonably anticipated to effect such result, and on the basis of such finding, that it does approve the Project, including changes in any details of the said financing as finally consummated which do not materially affect the said undertaking, and give published notice of its approval in the manner set forth in Section 14 of the Act.

September 18, 1973.

Respectfully submitted,

GREENVILLE COUNTY, SOUTH CAROLINA

(SEAL)

By

Larry M. Call  
Chairman of the Greenville County  
Council

Attest:

Cecil D. Buchanan  
Secretary of the Greenville  
County Council

SINKLER GIBBS SIMONS & GUÉRARD  
ATTORNEYS & COUNSELLORS AT LAW  
PROFESSIONAL ASSOCIATION

TELEPHONE 722-3366  
AREA CODE 803

HUGER SINKLER  
CHARLES H. GIBBS  
ALBERT SIMONS, JR.  
THEODORE B. GUÉRARD  
G. DANA SINKLER  
THOMAS A. HUTCHESON  
ROBERT H. HOOD  
CHARLES F. AILSTOCK  
M. WILLIAM YOUNGBLOOD, JR.  
JOHN H. WARREN, III

2 PRIOLEAU STREET

CHARLESTON, S. C. 29402

POST OFFICE BOX 340

September 28, 1973

Honorable P. C. Smith  
State Auditor  
Post Office Box 11333  
Columbia, South Carolina 29211

Dear Pat:

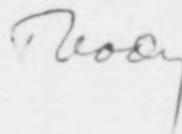
Re: \$1,000,000 Greenville County, South Carolina,  
First Mortgage Industrial Revenue Bonds,  
Series 1973 (Emery Industries, Inc. - Lessee)

You have already received from Ted Riley a copy of the Petition of the Greenville County Council in connection with the captioned bond issue. I now enclose a draft of the Lease Agreement with Exhibits attached, together with the original and 10 copies of a Resolution to be considered by the State Board approving the project to be financed from the bond proceeds.

When the Resolution has been adopted, please return 10 certified copies to us.

I do not know whether you have received any financial information relating to this issue and if not, it should be forthcoming directly to you from Mr. Dwight Lacy, the Assistant Treasurer of Emery Industries. In any event you will notice that the bonds are to be issued in the form of a note payable to the order of Morgan Guaranty Trust Company of New York.

Very truly yours,



TBG:mbd  
Enclosures

cc: (with enclosure)  
Forman Friend, Jr., Esq.  
Taft, Stettinius & Hollister  
603 Dixie Terminal Building  
Cincinnati, Ohio 45202

Dean Leonard, Esq.  
Davis, Polk & Wardwell  
One Chase Manhattan Plaza  
New York, New York 10015

2081



SINKLER GIBBS SIMONS & GUÉRARD, P. A.

Honorable P. C. Smith  
Page 2  
September 28, 1973

cc: (with enclosure)  
F. Dwight Lacy, Esq.  
Assistant Treasurer  
Emery Industries, Inc.  
4300 Carew Tower  
Cincinnati, Ohio 45202

E. P. Riley, Esq.  
Messrs. Riley & Riley  
Post Office Box 10084  
Greenville, South Carolina 29603

RESOLUTION

STATE OF SOUTH CAROLINA BUDGET AND CONTROL BOARD

WHEREAS, heretofore the Greenville County Council (the County Board) did, pursuant to Act No. 103 of the General Assembly of the State of South Carolina for the year 1967, as amended (the Act), petition the State Budget and Control Board of South Carolina (the State Board) seeking the approval of the State Board to an undertaking by the County Board pursuant to the Act; and

WHEREAS, the proposed undertaking consists of the financing by the County Board of a portion of the costs of the improvement and enlargement of the existing chemical plant located in Greenville County and owned by Emery Industries, Inc., an Ohio corporation (the Lessee) (said improvement and enlargement, together with the tract of land on which the same are located, being hereinafter referred to as the Project), and which Project will be leased to the Lessee; and the Lessee has advised the County Board that the estimated cost of the Project will be \$1,300,000 and the Lessee will provide all funds required in excess of \$1,000,000 from its own funds; and

WHEREAS, the Project is to be leased to the Lessee at a rental sufficient to provide for the payment of the Bonds of Greenville County hereafter referred to, and costs and expenses resulting from the issuance thereof; and

WHEREAS, in order to finance the Project the County Board proposes to provide for an issue of \$1,000,000 Greenville County First Mortgage Industrial Revenue Bonds in the form of a single note payable to the order of Morgan Guaranty Trust Company of New York, payable from the rentals derived from the Lessee and secured by a mortgage upon the Project from

Greenville County to Morgan Guaranty Trust Company of New York, as Mortgagee; and

WHEREAS, the form of the Lease Agreement between Greenville County and the Lessee and of the mortgage have been considered by this Board.

NOW, THEREFORE, BE IT RESOLVED BY THE STATE BUDGET AND CONTROL BOARD IN MEETING DULY ASSEMBLED:

1. It has been found and determined by the State Board

(a) That the statement of facts set forth in the recitals of this Resolution are in all respects true and correct.

(b) That the County Board has filed a proper petition to the State Board establishing a reasonable estimate of the cost of the Project, a general summary of the terms and conditions of the Lease and the mortgage to be made by the County Board and has established that the Lessee will pay as additional rentals, in lieu of taxes, the sums prescribed by Section 6 of the Act.

(c) That the Project will provide permanent employment for an additional 12 persons and will be of benefit to Greenville County and adjoining areas.

(d) That the Project is intended to promote the purposes of the Act and is reasonably anticipated to effect such results.

2. On the basis of the foregoing findings the proposed undertaking of the County Board to assist in financing the Project, to lease the Project to the Lessee and to finance a portion of the cost of the Project through the issuance of \$1,000,000 Greenville County First Mortgage Industrial Revenue Bonds payable from the revenues to be derived from the leasing of the Project and additionally secured by the said mortgage, all pursuant to the Act (including changes in any details of the said financing as finally consummated



which do not materially affect the said undertaking), be and the same is hereby approved.

3. Notice of the action taken of the State Board in giving approval to the undertaking of Greenville County above described in paragraph 2, supra, shall be published in THE STATE and in THE GREENVILLE NEWS, both of which are newspapers having general circulation in Greenville County.

4. That notice to be published shall be in form substantially as set forth as EXHIBIT "A" of this Resolution.

NOTICE PURSUANT TO ACT NO. 103 OF  
THE ACTS OF THE GENERAL ASSEMBLY  
SOUTH CAROLINA FOR THE YEAR  
1967, AS AMENDED

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Notice is hereby given that following the filing of a Petition by the Greenville County Council (the County Board) to the State Budget and Control Board of South Carolina (the State Board), approval has been given by the State Board to the following undertaking (including changes in any details of the said financing as finally consummated which do not materially affect the said undertaking), viz:

The acquisition by the County Board of the parcel of land in Greenville County on which are to be located an improvement and enlargement of the existing chemical plant of Emery Industries, Inc., an Ohio corporation (the Lessee) (said improvement and enlargement, together with the land on which the same are to be located, being hereinafter referred to as the Project). The Lessee advises the County Board that the estimated costs of the Project is \$1,300,000 of which the Lessee will provide all funds in excess of \$1,000,000. In that connection, in order to finance the aforesaid improvement and enlargement, the County Board will issue \$1,000,000 of Greenville County First Mortgage Industrial Revenue Bonds (the Bonds) pursuant to Act No. 103 of the Acts of the South Carolina General Assembly for the year 1967, as amended. The County Board will lease the Project to the Lessee under a Lease Agreement and the Bonds of Greenville County will be payable solely from the rentals to be paid to the County by the Lessee, which has irrevocably covenanted and agreed to pay when due, all sums required for the principal and interest thereon, and the Bonds will be additionally secured by a mortgage which will constitute a forecloseable lien upon the Project.

In addition the Lessee has agreed to pay as additional rentals to Greenville County, the School District, and all other political units wherein the Project is located, in lieu of taxes, such amounts as would result from taxes levied on the Project by Greenville County, the said School District, and the said other political units wherein the Project is situate, if the Project were owned by the Lessee, but with appropriate reductions similar to the tax exemptions, if any, which would be afforded to the Lessee if it were the owner of the Project.

The Lease by which Greenville County will lease the Project to the Lessee will provide that the Lessee shall purchase the Project for One Dollar (\$1.00) upon the payment in full of the Bonds.

When completed, it is estimated that the Project will provide permanent employment for an additional 12 persons.

Notice is further given that any interested party may at any time within twenty (20) days after the date of publication of this Notice, but not afterwards, challenge the validity of the action of the State Board in approving the undertaking of the County Board by action de novo instituted in the Court of Common Pleas for Greenville County.

THE STATE BUDGET AND CONTROL BOARD

By: P. C. SMITH, Secretary

PUBLICATION DATE:

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A RESOLUTION

APPROVING THE FINANCING OF THE IMPROVEMENT AND ENLARGEMENT OF A CERTAIN CHEMICAL PLANT IN GREENVILLE COUNTY (TO BE LEASED TO EMERY INDUSTRIES, INC.) THROUGH THE ISSUANCE OF ONE MILLION DOLLARS (\$1,000,000) OF GREENVILLE COUNTY, SOUTH CAROLINA, FIRST MORTGAGE INDUSTRIAL REVENUE BONDS, SERIES 1973 (EMERY INDUSTRIES, INC. - LESSEE); AND AUTHORIZING THE PETITION TO THE STATE BUDGET AND CONTROL BOARD OF SOUTH CAROLINA FOR ITS APPROVAL OF SUCH UNDERTAKING PURSUANT TO ACT NO. 103 OF THE 1967 ACTS OF THE SOUTH CAROLINA GENERAL ASSEMBLY, AS AMENDED.

As an incident to the adoption of this Resolution the Greenville County Council (the County Board) has made the following findings:

1. Emery Industries, Inc., an Ohio corporation (the Lessee), has proposed that the County Board undertake to finance the improvement and enlargement of the Lessee's chemical plant located in Greenville County, at an estimated cost in excess of \$1,000,000, through the issuance of Industrial Revenue Bonds pursuant to the authorization of Act No. 103 of the 1967 Acts of the South Carolina General Assembly (the Act), as amended. The Lessee has advised the County Board that its proposed improvement and enlargement program is dependent upon the assistance which the County might render through the sale of \$1,000,000 Industrial Revenue Bonds pursuant to the Act. The County Board has agreed so to finance the improvement and enlargement of the said chemical plant (the said improvement and enlargement, together with the tract of land on which the same is to be located, being hereinafter referred to as the Project), and adopts this Resolution to evidence its approval of the issuance of Bonds as aforesaid and to authorize a petition to the State Budget and Control Board (the State Board) setting forth the facts required by Section 14 of the Act.

2. The County Board has determined that the Project will subserve the purposes of the Act and neither the Project nor the Bonds will give rise to any pecuniary liability of Greenville County or a charge against its general credit or taxing power.

3. The principal amount of bonds to be issued by the County to finance the Project is One Million Dollars (\$1,000,000).

4. The Lessee has submitted to the County Board an outline of the proposed Lease, under which the Lessee will agree to pay as rent the amount necessary to provide the annual payments of principal and interest on the Bonds, which will be dated September 1, 1973, will bear interest and mature as more fully set forth in paragraph 6(c) of the attached Petition on September 1 in the years 1976 through 1981.

5. The proposed Lease obligates the Lessee unconditionally to pay the amount necessary to provide the annual payments of principal and interest, and premium, if any, to become due on the Bonds and to pay other costs in connection therewith and contains an appropriate provision requiring the Lessee to pay in lieu of taxes, such amounts as would otherwise be paid if the Lessee owned the Project.

6. In view of the well established credit of the Lessee, it is unnecessary to establish reserve funds for the payment of principal and interest.

7. The Lessee has advised the County Board that the Lessee has arranged for the sale of the Bonds to Morgan Guaranty Trust Company of New York in the form of a single note payable to the said Bank.

8. The Bonds will be issued as tax exempt bonds pursuant to the provisions of Section 103(c)(6)(A) of the Internal Revenue Code of 1954, as amended.

NOW, THEREFORE, BE IT RESOLVED BY THE GREENVILLE COUNTY COUNCIL, IN MEETING DULY ASSEMBLED:

That the County Board finds that the facts set forth above are in all respects true and correct and on such basis determines to finance the Project above described, and to authorize the sale of the Bonds by Greenville County as aforesaid.

BE IT FURTHER RESOLVED:

That the Petition in form substantially as attached hereto be presented to the State Board to seek the approval required by Section 14 of the Act; and that said Petition shall be duly executed by the Chairman of the County Board and attested by its Secretary.

(SEAL)

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Constituting the members of the  
Greenville County Council

Attest:

\_\_\_\_\_  
Secretary of the Greenville  
County Council



STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE.

\_\_\_\_\_  
TO THE STATE BUDGET AND CONTROL  
BOARD OF SOUTH CAROLINA  
\_\_\_\_\_

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)  
P E T I T I O N

The Petition of the Greenville County Council (the County Board), pursuant to Act No. 103 of the Acts of the General Assembly of the State of South Carolina for the year 1967, as amended, respectfully shows:

1. The County Board is the governing body of Greenville County as established under Chapter 39, Title 14, South Carolina Code of Laws, 1962, as amended, and as such it is the "County Board" referred to in Act No. 103 of the South Carolina General Assembly enacted at its 1967 Session, as amended (the Act).

2. The Act authorizes and empowers the County Board if it shall comply with the provisions set forth in the Act, to acquire land, buildings, equipment and machinery and other improvements deemed necessary, suitable and useful by any manufacturing or processing enterprise, and any enlargement, expansion or improvement of any existing enterprise; to lease the same; and to finance the acquisition of the same through the issuance of bonds payable from and secured by a pledge of the revenues to be derived from the leasing of such land, buildings, equipment and machinery and other improvements.

3. The County Board has agreed with Emery Industries, Inc., an Ohio corporation (the Lessee), that the County Board will undertake to finance the improvement and enlargement of the Lessee's chemical plant located in Greenville County by the Lessee through the issuance of Industrial Revenue Bonds pursuant to the Act. In this connection the County Board has agreed to accept a conveyance of the parcel of land on which the said improvement and enlargement is to be located (said improvement and enlargement, together with the tract of

land on which the same is located, being hereinafter referred to as the Project), and the County Board has agreed to issue One Million Dollars (\$1,000,000) Greenville County First Mortgage Industrial Revenue Bonds, Series 1973 (Emery Industries, Inc. - Lessee) pursuant to the Act in order to finance the improvement and enlargement of the Project.

4. The County Board is advised by the Lessee that the cost of the improvement and enlargement of the Project is estimated to be in excess of \$1,000,000, and the Lessee will provide all funds required in excess of \$1,000,000 from its own funds; and that, therefore, in order to finance the Project, including the costs and charges incident to the issuance and sale of the bonds hereinafter described, it will be necessary that the County Board issue One Million Dollars (\$1,000,000) Greenville County First Mortgage Industrial Revenue Bonds, Series 1973 (Emery Industries, Inc. - Lessee) (the Bonds).

5. When the Project is complete, it will provide permanent employment for an additional 12 persons.

6. For the reasons above set forth and hereafter disclosed, the County Board has found:

(a) The proposed Project will subserve the purposes of the Act.

(b) By reason of undertaking the Project no pecuniary liability will result to the County nor will there be a charge against its general credit or taxing power.

(c) The proposed Lease between the County Board and the Lessee will unconditionally obligate the Lessee to pay rent in an amount adequate to provide for the principal and interest payments on the Bonds which mature and bear interest as follows:

3.

<u>September 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1976	\$ 50,000	4.65% plus 1/2
1977	50,000	of the difference
1978	100,000	between 6.50%
1979	150,000	and prime
1980	300,000	
1981	350,000	

(d) The Lessee is a corporation with a well established credit and, therefore, it is unnecessary to establish reserve funds for the payment of such principal and interest.

(e) The terms of the Lease will require the Lessee to carry proper insurance and to pay all costs of maintaining the Project in good repair.

7. Pursuant to Section 14 of the Act, the County Board sets forth the following information:

(a) The Project to be undertaken consists of the improvements and enlargements which will be necessary for, and part of, the Lessee's chemical plant located in Greenville County.

(b) The Project will provide permanent employment for an additional 12 persons. It is, therefore, believed that the Project will have an extremely beneficial effect upon the economy of the County and areas adjacent thereto.

(c) The cost of the Project is approximately One Million Three Hundred Thousand Dollars (\$1,300,000) including financing costs and all other expenses to be incurred in connection therewith.

8. The proposed Lease will provide, among other things, the following:

(a) To finance the cost of the Project, the County will issue \$1,000,000 of Greenville County First Mortgage Industrial Revenue Bonds, Series 1973 (Emery Industries, Inc. - Lessee). The Bonds will be issued in the form of a single note payable to the order of Morgan Guaranty and Trust Company of New York, and will be secured by a pledge



4.

of the rents to be paid by the Lessee and will be further secured by a mortgage, as authorized by Section 5 of the Act, to said Bank.

(b) The proceeds derived from the sale of the Bonds will be deposited in a Construction Fund and will be withdrawn on requisition of the Lessee and the County and applied solely for the payment of costs incident to the Project, and the issuance of the Bonds.

(c) The Lease will contain a specific provision by which the Lessee will unconditionally agree to make payments to Greenville County, to any School District in Greenville County, and to all other political units in which the Project is situated, in lieu of taxes, in such amounts as would result from taxes levied on the Project by Greenville County, by any such School District, and by said political units if the Project were owned by the Lessee, but with appropriate reductions similar to the tax reductions, if any, which would be afforded the Lessee were it the owner of the Project.

(d) The Lease contains no provision imposing any pecuniary liability upon the County or which would create a charge upon its general credit or taxing power.

9. The proposed Lease and the proposed mortgage will be substantially in the form enclosed herein. While changes will be made in the enclosed forms, it is not expected that there will be any changes which will substantially affect the undertaking as now outlined therein.

Upon the basis of the foregoing, the County Board respectfully prays:

That the State Budget and Control Board accept the filing of the Petition presented herewith and that it do, thereafter, and as soon as practicable, make its independent investigation of the Project and the terms and provisions of the Lease and the mortgage, as it deems advisable, and that thereafter, the said State Board make a finding that

5.

the proposed Project will promote the purpose of the Act and that it is reasonably anticipated to effect such result, and on the basis of such finding, that it does approve the Project, including changes in any details of the said financing as finally consummated which do not materially affect the said undertaking, and give published notice of its approval in the manner set forth in Section 14 of the Act.

\_\_\_\_\_, 1973.

Respectfully submitted,

GREENVILLE COUNTY, SOUTH CAROLINA

(SEAL)

By

\_\_\_\_\_  
Chairman of the Greenville County  
Council

Attest:

\_\_\_\_\_  
Secretary of the Greenville  
County Council

chemical manufacturers

Emery

Industries, Inc.

Carew Tower, Cincinnati, Ohio 45202 • (513) 762-6200

October 3, 1973

Honorable P. C. Smith  
State Auditor  
Post Office Box 11333  
Columbia, South Carolina 29211

Dear Mr. Smith:

Enclosed are two copies of the annual reports of Emery Industries, Inc. for the last three fiscal years. These are being provided in connection with a proposed Industrial Revenue Bond issue in Mauldin, South Carolina. Mr. Theodore B. Guerard of Sinkler, Gibbs, Simons & Guerard is the lawyer acting as Bond Counsel. We are hopeful that the state will approve this issue early in October.

Sincerely,

EMERY INDUSTRIES, INC.

*F. Dwight Lacy*  
F. Dwight Lacy  
Assistant Treasurer

FDL/pd



*Autumn*

SINKLER GIBBS SIMONS & GUÉRARD  
ATTORNEYS & COUNSELLORS AT LAW  
PROFESSIONAL ASSOCIATION

TELEPHONE 722-3366  
AREA CODE 803

HUGER SINKLER  
CHARLES H. GIBBS  
ALBERT SIMONS, JR.  
THEODORE B. GUÉRARD  
G. DANA SINKLER  
THOMAS A. HUTCHESON  
ROBERT H. HOOD  
CHARLES E. AILSTOCK  
M. WILLIAM YOUNGBLOOD, JR.  
JOHN H. WARREN, III

2 PRIOLEAU STREET

CHARLESTON, S. C. 29402

POST OFFICE BOX 340

September 17, 1973

E. P. Riley, Esq.  
Messrs. Riley & Riley  
Post Office Box 10084  
Greenville, South Carolina 29603

Dear Ted:

Re: \$1,000,000 Greenville County, South Carolina,  
First Mortgage Industrial Revenue Note, Series  
1973 (Emery Industries, Inc. - Lessee)

Enclosed is the original and 10 copies of a Resolution of the Greenville County Council approving the project to be financed out of the captioned bonds and authorizing a petition to the State Board. We also enclose (in a blue back) the original petition.

If the Resolution appears in order, will you please have the same adopted, return 10 certified copies to us and forward the executed petition directly to Pat Smith.

Very truly yours,

*Neddy*

TBG:mbd  
Enclosures

cc: (with enclosure)  
Foreman Friend, Jr., Esq.  
Taft, Stettinius & Hollister  
603 Dixie Terminal Building  
Cincinnati, Ohio 45202

Dean Leonard, Esq.  
Davis, Polk & Wardell  
One Chase Manhattan Plaza  
New York, New York 10015

cc: (with enclosure)  
F. Dwight Lacy, Esq.  
Assistant Treasurer  
Emery Industries, Inc.  
4300 Carew Tower  
Cincinnati, Ohio 45202

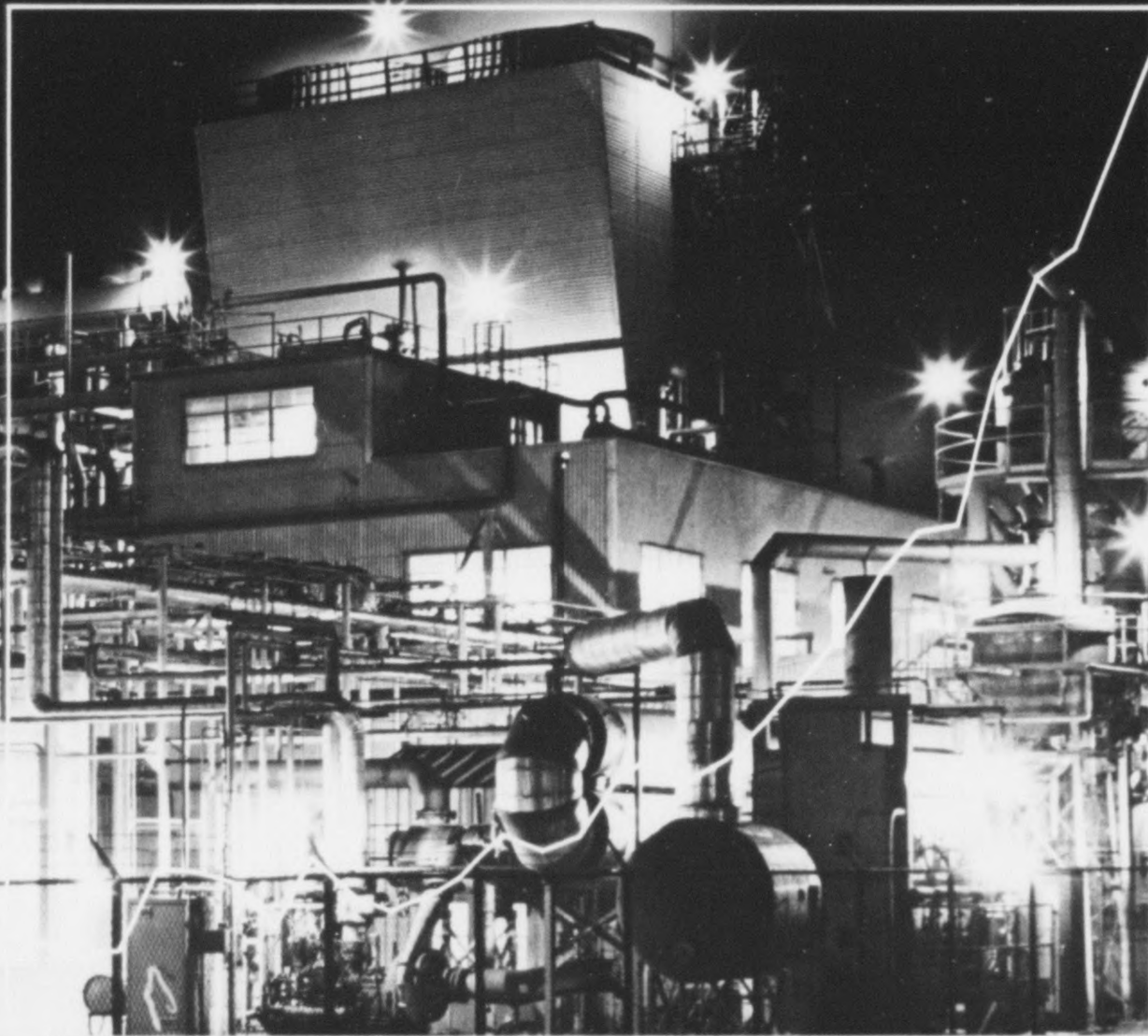
✓ Honorable P. C. Smith  
State Auditor  
Post Office Box 11333  
Columbia, South Carolina 29211

2097

THIS CASE MAY HAVE SOME OR ALL OF THE FOLLOWING DEFECTS WHICH MAY BE QUESTIONABLE WHEN READING. IN SPECIAL PROBLEM AREAS, THIS ROLL NOTE MAY BE REFILMED BEFORE THE DOCUMENT OR DOCUMENTS IN QUESTION.

1. PHOTOCOPY NOT CENTERED PROPERLY CUTTING OFF SOME OF THE INFORMATION.
2. DOCUMENTS ARE OF POOR LEGIBILITY AND MAY NOT PHOTOGRAPH WELL.
3. DOCUMENTS DAMAGED OR TORN BEFORE ARRIVING FOR FILMING.
4. DOCUMENTS CONTAIN A DOUBLE-COPY IMAGE, THE UNDERLYING IMAGE IS IRRELEVANT TO THE READABLE INFORMATION.
5. OVERSIZED DOCUMENTS THAT COMPRISE TWO OR MORE FRAMES.
6. DOCUMENTS WITH GLUED INSERTS WHICH WERE OR COULD NOT BE REMOVED, INFORMATION MAY OR MAY NOT BE UNDER THE INSERT.

	\$100.7	\$98.7	+11%
Earnings (millions)	\$ 7.0	\$ 4.8	+44%
Earnings per share	\$ .84	\$ .58	+45%



30-Year Sales Growth

2098



Emery Industries is a manufacturer of specialty chemicals used in a variety of consumer and industrial goods.

#### Contents:

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## To The Shareholders:

### Profits and Sales Reach New Highs

Record profits and sales were established by Emery Industries, Inc. in the fiscal year ended March 31, 1973.

#### Profits Up 44%

Net income was \$6,973,000 for the year just ended, an increase of 44% over \$4,839,000 the prior year. This is the highest net income in Emery's history and the dollar increase is the largest yearly increase in Emery's history.

#### Earnings Per Share Up 45%

Net income per common share was 84¢ this year, an increase of 45% over 58¢ last year. This year's 84¢ per share income set a new Emery record. Both figures are based on average common shares outstanding of 8,054,000 shares this year versus 7,887,000 shares last year.

#### Sales Up 11%

Net sales were \$109,682,000 for the fiscal year just ended, an increase of 11% over \$98,702,000 for the prior year. This is a new record sales level for Emery. This is the twelfth year in a row in which sales have increased. During this twelve year period sales have increased \$81 million, from \$28.7 million to \$109.7 million.

### Results Explained

During each of the four quarters of fiscal 1973, quarterly profits increased significantly over the prior year. The rising earnings were caused by increased sales volume, an upgrading of product mix, efficient utilization of plant facilities, reduced debt levels, and improved economic conditions.

### Quarterly Dividends Increased

A new higher quarterly dividend of 7¾¢ per common share was declared by Emery's Board of Directors effective with the December 1, 1972 dividend. The share increase was ¼¢ quarterly or 1¢ per year and was within the government guidelines.

The annual dividend rate is now 31¢ per common share.

#### **Cash Dividends Set Record**

During the fiscal year, cash dividends of \$2,690,000 were paid on the common and preferred shares. This is the highest dividend level in Emery's history. Emery has paid cash dividends on common shares for 39 consecutive years.

#### **Plant Expansion In Progress**

Plant expansions at several locations are now in progress. These expansions are in response to rising demands for Emery's high quality specialty chemicals. Completion of these various new facilities will take place in 1973 and 1974.

#### **Company Supports Pollution Control**

Emery employees, and official Company policies, support strong efforts to improve the quality of the environment. At most of our locations and in most of our processes, pollution has already been strictly controlled. In those instances where practical improvement can still be achieved, we have programs in progress to achieve that goal. Because of substantial Company funds spent in the past on pollution control, unusually large expenditures in the future for this purpose will not be necessary.

#### **Joint Venture Agreement Extended**

The agreement between Monsanto and Emery for the Monsanto-Emery joint venture, scheduled to expire in 1973, has been improved and extended for another 15 years. This profitable venture supplies tall oil fatty acids to Emery.

#### **Raw Materials Costs Increase**

During fiscal 1973, the prices of many Emery raw materials rose sharply, both natural fats and oils and petrochemicals. Adverse weather conditions in the U.S. during 1972 limited domestic production. At the same time, poor harvests in

Russia and India as well as the U.S. dollar devaluation created strong foreign buying interest in U.S. raw materials. Prices of many of these materials have reached and, at this date, remain at record levels.

#### **Union Contract Negotiations Ahead**

During fiscal 1974, several labor contracts involving the majority of our plant employees will be renegotiated. The locations and their expiration dates are: Los Angeles, August 26, 1973; Louisville, September 30, 1973; Cincinnati, February 4, 1974.

#### **Employee Stock Plan Started**

In February 1973 the Company offered to all employees a new Stock Savings Plan, an opportunity to purchase Emery stock by payroll deductions. The plan started in April 1973 and to date 35% of the employees have participated.

#### **Outlook**

Forecasting the results for fiscal 1974 is difficult at this time. Although our business continues strong and growing, raw material markets are chaotic. Prices for natural and petrochemical raw materials are at record levels. We have increased selling prices to attempt to sustain margins, but at this writing it is too early to judge the overall effect on profits.

With new, efficient plants and a strong organization, we are in a sound position for continued further growth. The Company has more than doubled in sales and profits in the past seven years since fiscal 1966, and it is our objective to continue this growth in the future.

#### **Interest in Emery Appreciated**

We thank our employees everywhere for their dedication to Emery Industries. We also thank our shareholders for their continuing support of the Company.



*D. R. Hinkley*

D. R. Hinkley  
President  
June 5, 1973

### **What's Important About Emery**

Emery Industries is a major manufacturer of specialty chemicals which has achieved above-average growth in sales and earnings through emphasis on:

1. High technology processes
2. Exclusive and superior-quality chemicals
3. Diversity of end-use markets
4. High-growth markets.

This report will briefly review these factors and how they have contributed to the overall strength and long-term growth of Emery.



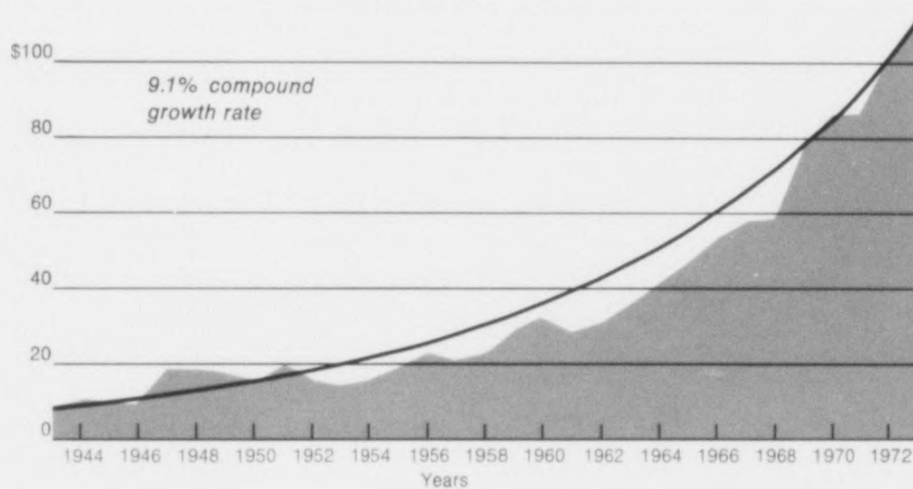
### Above-Average Growth

Over the past thirty years, the average rates of increase for the three decades from 1943 to 1973 have been 2.4 times for sales and 2.7 times for earnings.

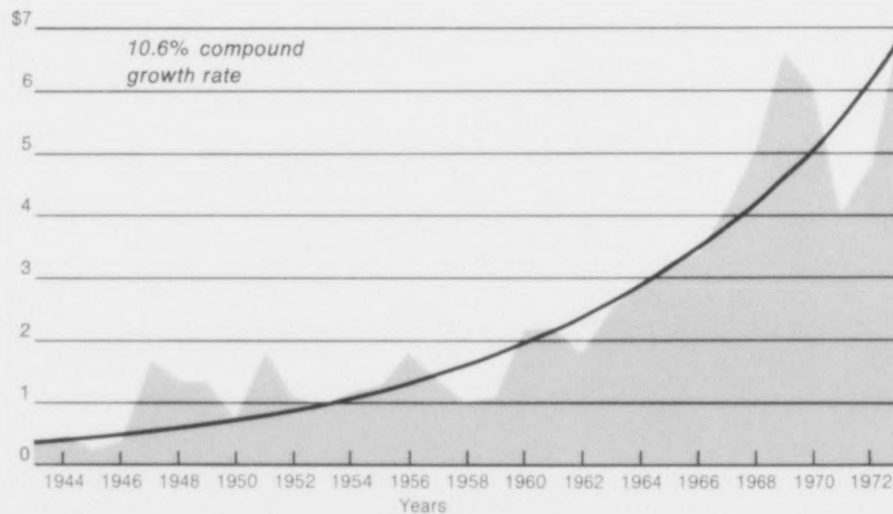
In the decade just past, growth rates accelerated and sales increased approximately 3 times and earnings 2.8 times. These growth rates mean that Emery would double sales and earnings about every seven years.

As illustrated in the charts below, Emery's compound growth rates for the last 30 years have been 9.1% for sales and 10.6% for earnings.

**Net Sales (millions)**

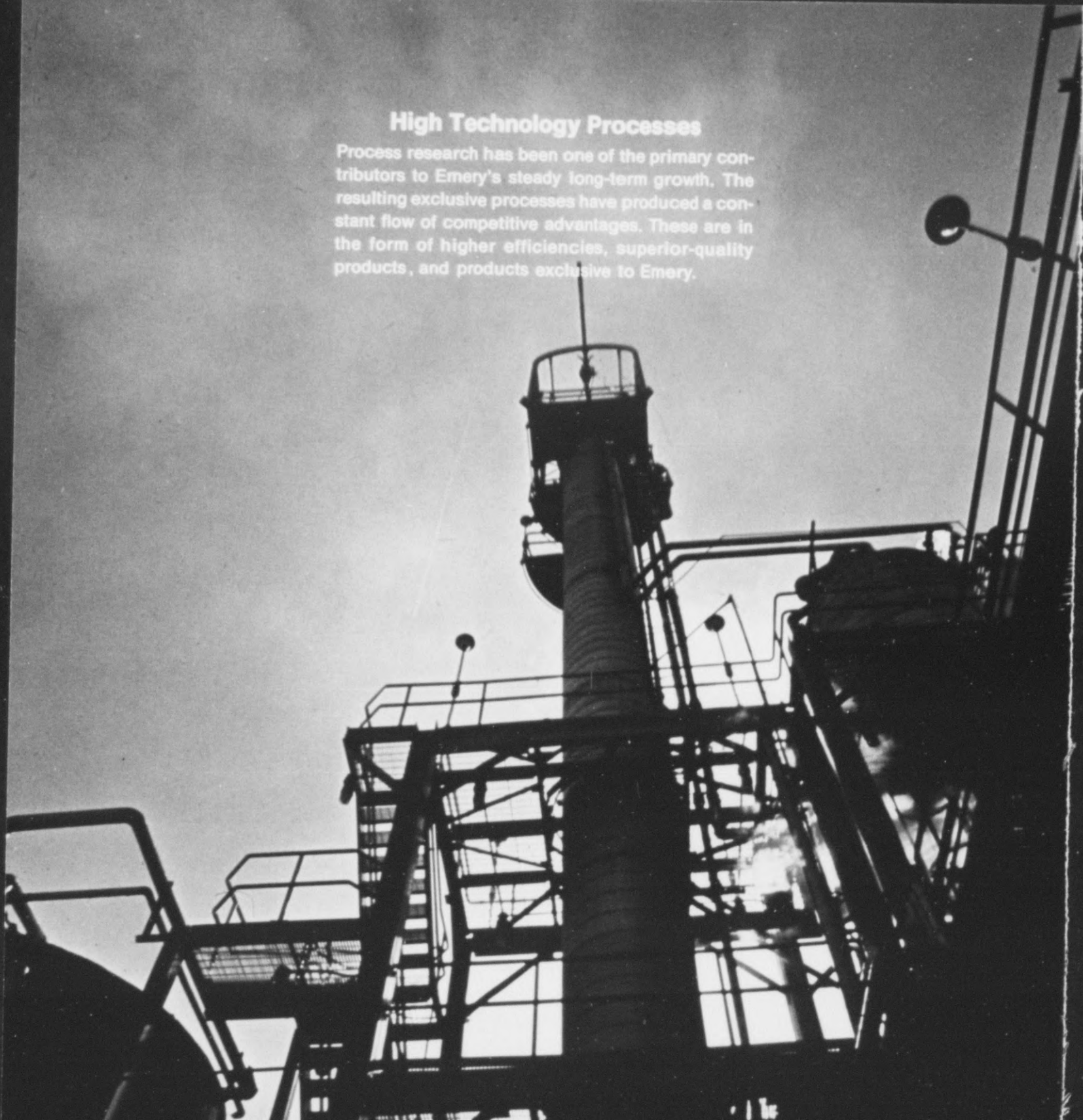


**Net Earnings (millions)**

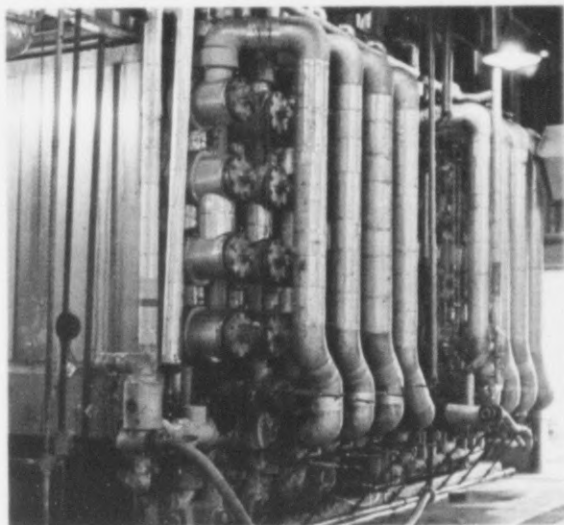
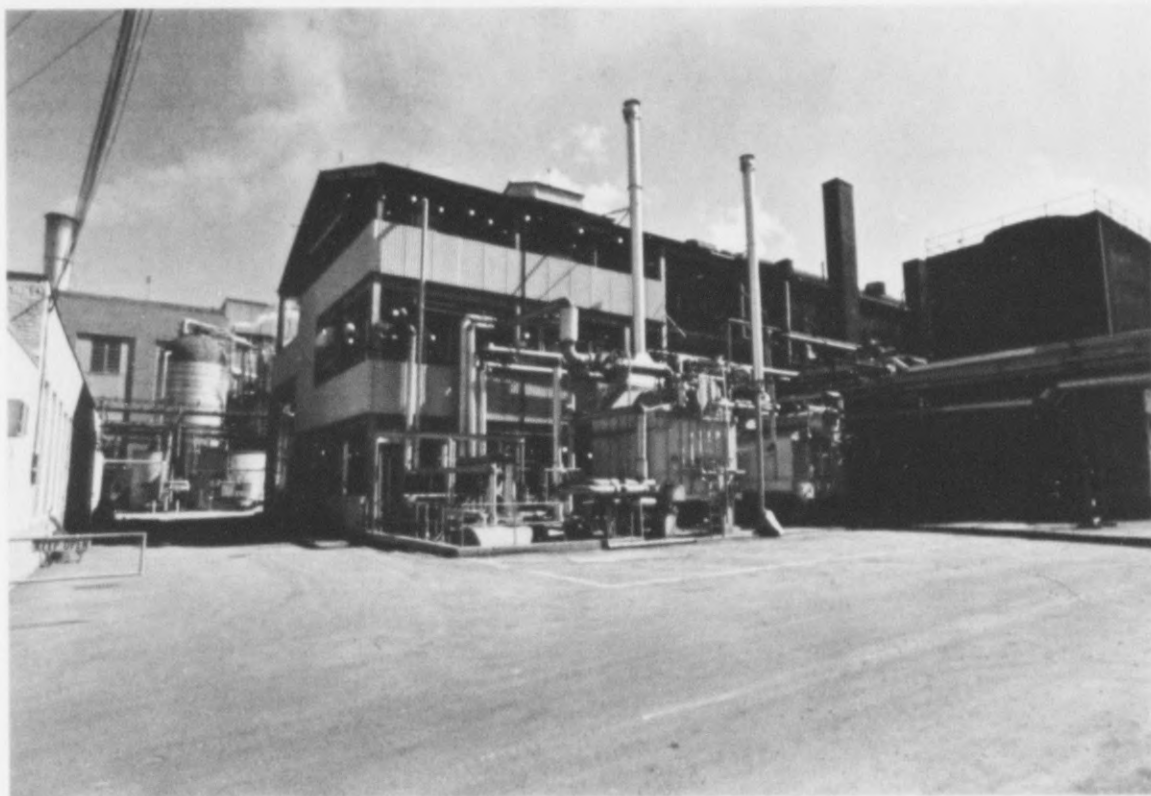


### High Technology Processes

Process research has been one of the primary contributors to Emery's steady long-term growth. The resulting exclusive processes have produced a constant flow of competitive advantages. These are in the form of higher efficiencies, superior-quality products, and products exclusive to Emery.



One of the reasons for the high quality of Emery's fatty acids is these highly efficient continuous distillation units. Because they operate under an extremely high vacuum, distillation temperature is lower, thereby reducing impurities resulting from decomposition.



The cost of separating solid from liquid fatty acids was considerably lowered by the exclusive Emerson Process. Selective solvent crystallization at refrigeration temperatures is the secret to this continuous process.



Emery's exclusive Ozonolysis Process was the key to the efficient commercial production of two exclusive products: azelaic and pelargonic acids. Derivatives of these led Emery into the plastics field and lubricants for jet-engine and specialty automotive uses.

The Colgate-Emery Process for splitting fats into fatty acids and glycerine changed a costly batch operation into a highly efficient continuous process.



### Exclusive & High-Quality Products

Emery has always stressed quality. Well known as the leader in fatty acid quality, Emery has now achieved this same reputation for leadership in the area of derivatives.

Emphasis has continually been placed on innovative products that are exclusive to Emery.

**The unmatched  
properties of  
Empol® 1016  
Dimer Acid now  
come in even  
lighter color.**

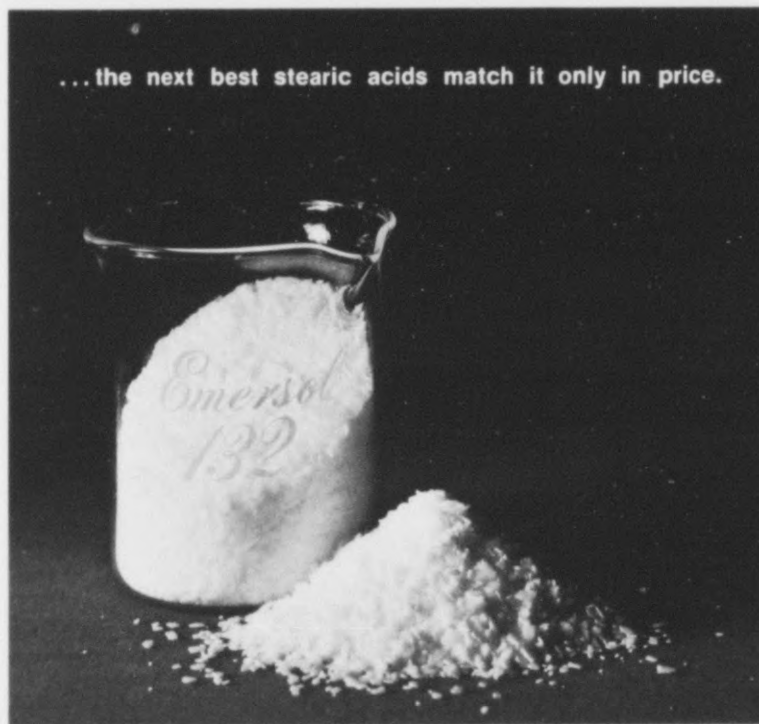
*Product improvement of one of  
Emery's dimer acids is dramatized  
by this portion of an Emery  
trade advertisement.*



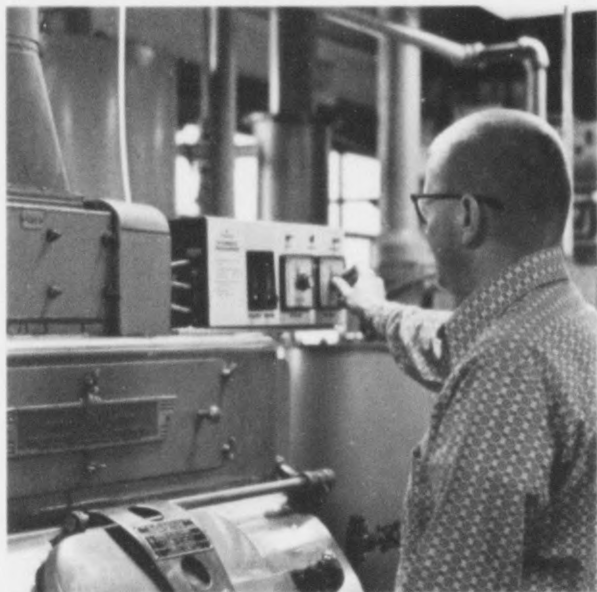
*A derivative of isostearic acid, an  
Emery exclusive, is being form-  
ulated into a lipstick, to which it  
imparts a unique  
degree of dye  
solubilization.*



**...the next best stearic acids match it only in price.**



*This excerpt from an advertisement  
illustrates the emphasis placed on the  
high quality of Emery stearic acids.*



Continual evaluations of drycleaning detergents in commercial equipment have resulted in superior detergents for Sanitone retail drycleaners and for industrial drycleaners.

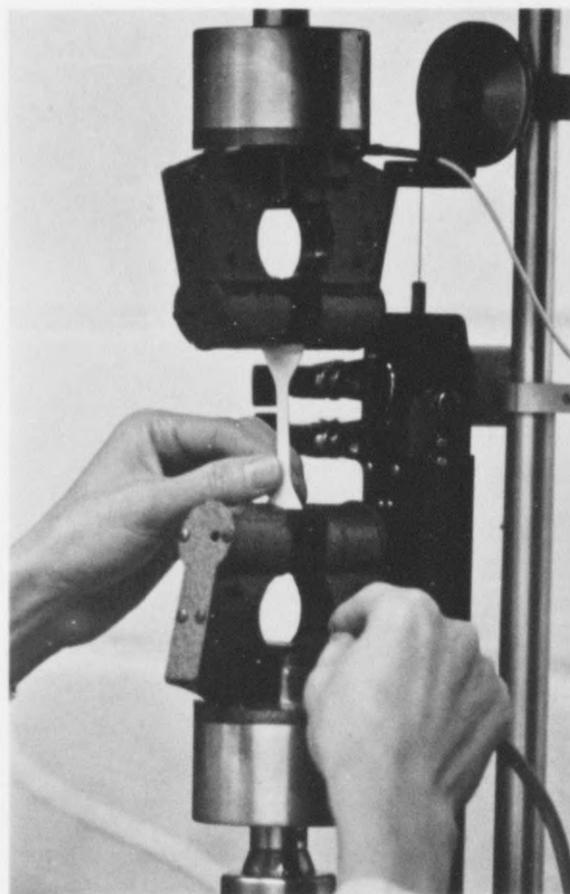
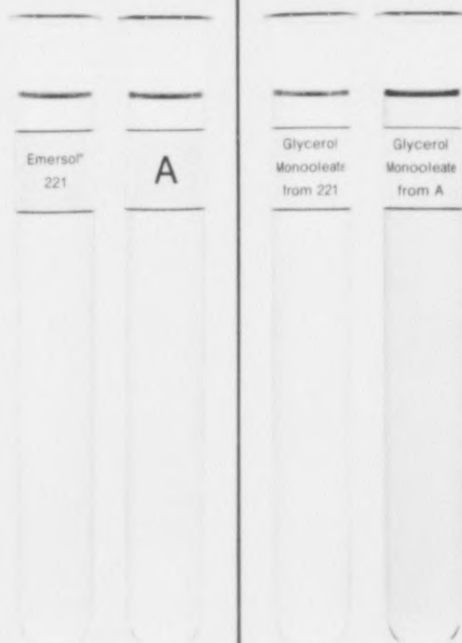
A new synthetic lubricant fluid has been developed for both crankcase and hydraulic applications under extreme cold weather conditions. This new product, Frigid-Go, will provide lubrication down to 85° below zero.



These oleic acids look the same...

but rigors of processing show superiority of Emery Oleics.

Part of a recent trade advertisement for Emery oleic acid illustrates its superior color and heat stability compared to the leading competitive product.



Nylon 6/9, a nylon made from Emery's exclusive azelaic acid (9 carbon atoms) is being evaluated as a molding resin for small parts.

## High Growth Markets

Emery concentrates product development on selective high-growth markets. Research, product development, and market development teams work very closely to create products which fit very specific and already existing needs of these markets.



*Emery specialty plasticizers give vinyl resins the required flexibility and durability under severe climatic changes. The vinyl plastic market has experienced an annual growth rate of 14% since 1965.*



*Many of Emery's products serve as basic ingredients for cosmetics and toiletries. These include fatty acids, fatty acid derivatives, lanolin derivatives, and surfactants. Shipments of cosmetic products have shown an annual growth rate of approximately 9%.*

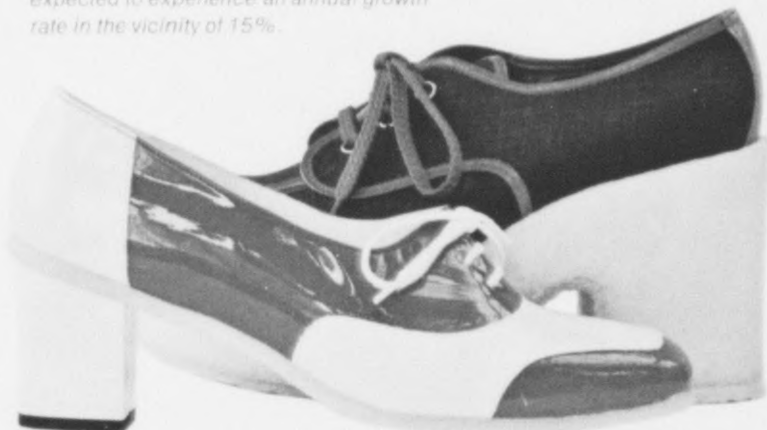




*During the past five years, shipments of man-made fibers have shown an annual rate of increase of over 12%. Emery serves this market through its polymer modifiers, dye intermediates, and a complete line of textile processing chemicals and fabric finishes.*

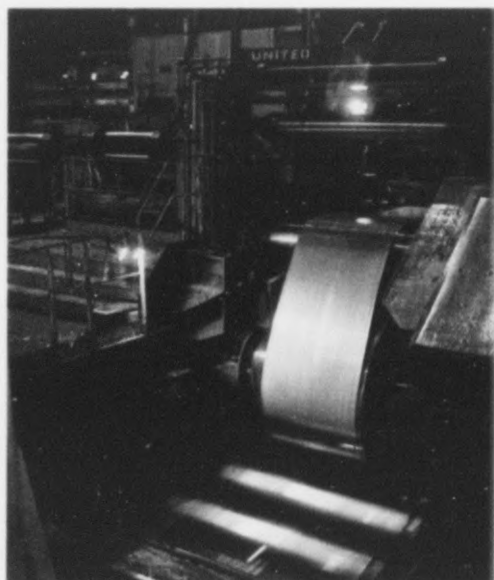
*The consumption of synthetic lubricants for jet engines is increasing by about 10% each year. Derivatives of Emery's azelaic and pelargonic acids are major ingredients in such lubricants.*

*Emery polyamides are the base for hot-melt adhesives for a variety of uses including shoe construction. The hot-melt adhesive industry is expected to experience an annual growth rate in the vicinity of 15%.*



## Diversity Of Markets

Most of Emery's chemicals are utilized as ingredients in substantial quantities by 18 out of the 21 industry classifications established by the U.S. Government. The diversity of these industries, primarily consumer product oriented, has been and is expected to continue to be an important factor in Emery's consistent sales growth.



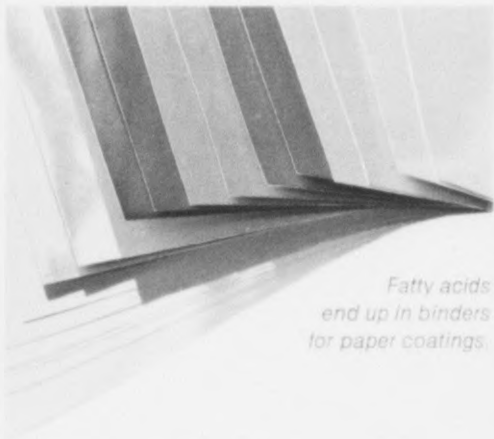
Many metal lubricants, including those used in the cold rolling of steel, are made from Emery fatty acids and derivatives. Metal cutting and stamping fluids also utilize Emery surfactants.



Rubber products utilize small percentages of fatty acids as lubricants and vulcanization accelerators. Emery's oleic acids are also used in polymerization of synthetic rubbers.



A variety of Emery's fatty acids and derivatives are used as basic ingredients in industrial finishes and consumer paints.



Fatty acids end up in binders for paper coatings.



Cissell garment finishing cabinets are sold to drycleaners and coin-op laundries. The unit pictured is a recently introduced self-service model made expressly for motels.



Emery food emulsifiers and food grade fatty acids make ice creams, peanut butter, and other foods smoother and creamier.

Carpets and fabrics of all types of fibers are an excellent market for Emery's textile chemicals. These include fiber lubricants, yarn finishes, dye intermediates, textile fabric softeners and finishes, and fiber polymer modifiers.



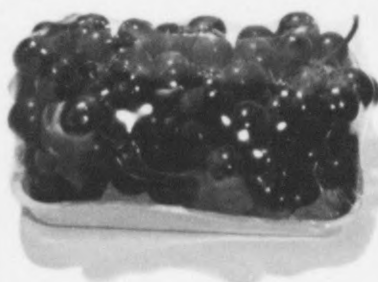
Emery surfactants and derivatives of fatty acids keep oil-soluble and water-soluble portions of waxes and polishes from separating.



Emery's stearic acids add rigidity to such molded products as candles and crayons.



Soaps and detergents of all kinds utilize Emery fatty acids and surfactants.



Food wrap films utilize Emery specialty plasti-cizers to maintain their flexibility at low temperatures. The flexographic ink used for printing various food wraps are based on Emery polyamide resins.



Emery surfactants are used to mix pesticides with water for spray applications. Other Emery chemicals also eliminate costly hand-removal of tobacco plant suckers.

#### End Use Distribution, Fiscal 1973 Customer Use

	1973-74
Plastics: vinyl products, epoxy resins, plastics	14.5%
Textiles, natural and synthetic	5.9
Synthetic lubricants, petroleum oils and greases	9.0
Protective coatings: paints, varnishes, waxes, polishes	8.3
Drycleaning and laundry equipment	8.3
Chemical intermediates	7.8
Cosmetics and toiletries, drugs and pharmaceuticals	6.0
Detergents and emulsifiers	6.8
Rubber: synthetic and natural	5.6
Adhesives and inks	5.5
Drycleaning chemicals	3.5
Soaps, cleaning compounds	2.4
Mailworking compounds	2.3
Other uses, including foods, agricultural uses, insecticides and paper products	12.1
<b>TOTAL</b>	<b>100.0%</b>



## Officers



**D. R. Hinkley**  
*President*



**John M. Archibale**  
*Vice President,  
Manufacturing*



**Jack C. Close**  
*Vice President,  
Organochemical Group*



**David R. Eagleson**  
*Vice President,  
Oleochemical Group*



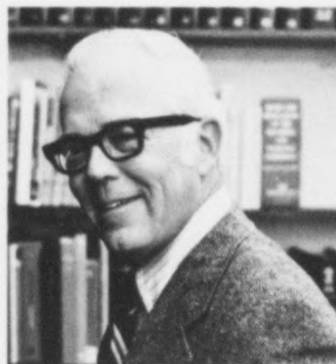
**Charles G. Goebel**  
*Vice President,  
Research and Development*



**Albert H. Jordan**  
*Vice President,  
Drycleaning Products Division*



**Walter T. Meinert**  
*Vice President,  
International Operations*



**L. H. Lanman**  
*Secretary and  
Corporate Counsel*



**N. D. Bachman**  
*Treasurer*



**John T. Gilligan**  
*Controller*

**Charles J. Eades**  
*Assistant Secretary*

**F. Dwight Lacy**  
*Assistant Treasurer*

## Directors

**John M. Archibale**  
*Vice President of the Company*

**K. K. Boyd**  
*Retired Vice President of the Company*

**James R. Bridgeland, Jr.**  
*Partner, Taft, Steffinius & Hollister*

**George H. Brown, Jr.**  
*Retired Chairman of the Board,  
Girard Bank*

**John J. Emery\***  
*President, Thomas Emery's Sons, Inc.*

**D. R. Hinkley\***  
*President of the Company*

**Charles S. Mechem, Jr.**  
*Chairman of the Board,  
Taft Broadcasting Company*

**Paul R. Ilyinsky**  
*Director and Secretary,  
Emery Realty, Inc.*

**Daniel W. LeBlond**  
*President, LeBlond Incorporated*

**William S. Rowe**  
*President, Fifth Third Bank*

**Arthur W. Schubert\***  
*Chairman of the  
Executive Committee of the Company*

\*Members of the Executive Committee of the Company.

## Financial Review

Sales up 11%; Earnings up 44%

### Sales

Net sales for the fiscal year ended March 31, 1973 were a record \$109,682,000, an increase of 11% over the \$98,702,000 in 1972. If Emery's share of the sales of Unilever-Emery N.V. were included in the Company's total, sales would have been \$129 million.

### Earnings

Net income for fiscal year 1973 was \$6,973,000, an increase of 44% over \$4,839,000 in 1972. Earnings per common share were 84¢ this year, an increase of 45% over 58¢ last year.

Earnings per common share were based on 8,053,911 average shares this year and 7,887,190 average shares last year. No material dilution of earnings per common share would result from the assumed conversion of the Series A preferred stock and the exercise of stock options.

### Common Share Dividends

Quarterly cash dividends of 7½¢ and 7¾¢ per common share were paid during the year:

June 1, 1972	7½¢	December 1, 1972	7¾¢
September 1, 1972	7½¢	March 1, 1973	7¾¢

Emery has paid cash dividends for 39 consecutive years.

### Financial Condition

Emery's financial condition in 1973 continued to be strong. Cash and marketable securities were equal to \$10.9 million at the end of the fiscal year even after \$5.2 million of debt payments.

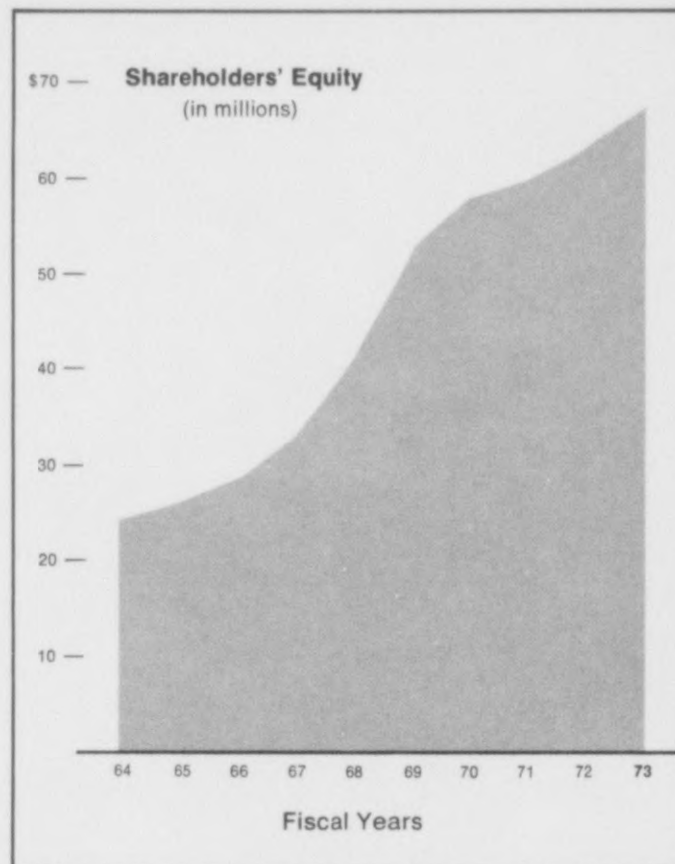
Net working capital was \$32,087,000 with a current ratio of 3.3 to 1. Total long-term debt, including the current portion, has been reduced to \$20 million, or 23% of total debt plus shareholders' equity at book value.

The credit rating of Emery's 9¼% Sinking Fund Debentures was increased from Baa to A by Moody's Investors Service, Inc. in December 1972. This increase in rating reflects Emery's increased financial strength caused by rising income and repayment of over \$10 million in debt in the last two years. Now Moody's Investors Service has joined Standard & Poor's Corporation in assigning this issue an A rating.

The most important part of Emery's strong capitalization continues to be its shareholders' equity. The chart at the top of the page illustrates its significant increase over the last ten years.

### Capital Expenditures

Capital expenditures were \$3.6 million this year, compared with \$2.0 million last year. Capital expen-



ditures continued to be moderate this year reflecting only normal capital expenditures required to operate the plants and modest additions to existing facilities. Capital expenditures will be significantly higher over the next 2-3 years.

Depreciation in fiscal 1973 was \$4.1 million, the same amount as last year. This constant depreciation level reflects the moderate levels of recent capital expenditures.

### International Monetary Changes

Because the 1973 agreement to realign the parities of national currencies occurred in the last quarter of the fiscal year, Emery's income gain this year was insignificant. The gain in net assets of Emery's various overseas companies will be translated into income over appropriate periods.

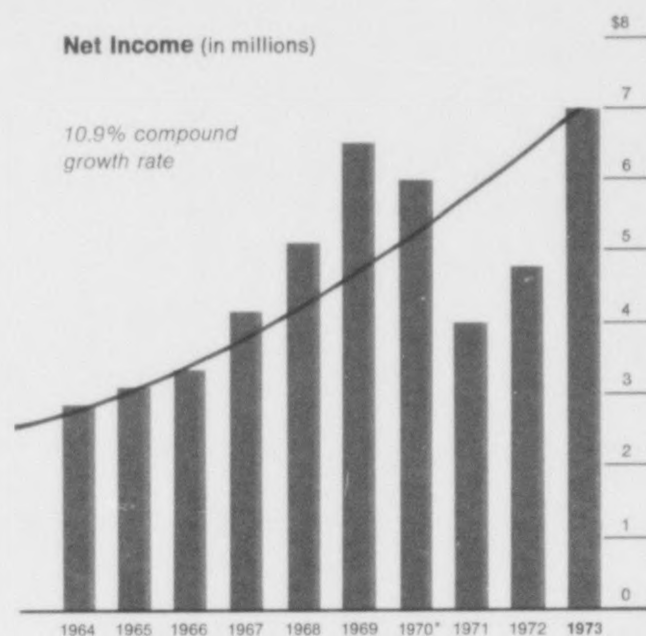
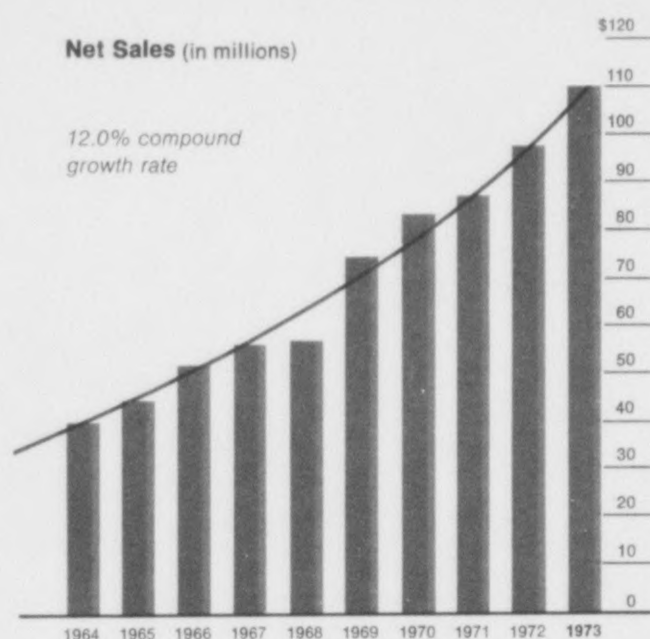
### Reporting of Joint Ventures

Reflecting the increased significance of Unilever-Emery, a joint venture in Gouda, The Netherlands, its results will now be reported separately in both the income statement and balance sheet. Monsanto-Emery, a raw material supply joint venture in Nitro, West Virginia, will henceforth be reflected as a part of Emery's overall figures.



## 10 Year Review

Dollars in Thousands (except per share data)



Base period for compound growth is 1963.

### Fiscal Years Ended March 31st.

	1973	1972	1971
<b>Annual Results</b>			
Net sales	\$109,682	\$98,702	\$87,651
Net income	\$ 6,973	\$ 4,839	\$ 4,084
Per common share:			
Net income	\$ .84	\$ .58	\$ .49
Cash dividends paid	\$ .305	\$ .30	\$ .30
Capital expenditures	\$ 3,649	\$ 2,004	\$ 5,607
Depreciation and amortization	\$ 4,093	\$ 4,084	\$ 3,617
Average common shares outstanding (000s)	8,054	7,887	7,840
Return on shareholders' equity at beginning of year	11.1%	8.1%	7.0%

### Financial Position at Year-End

Net working capital	\$ 32,087	\$29,784	\$29,430
Current ratio	3.3	3.3	3.5
Net plant	\$ 50,187	\$50,787	\$52,885
Long-term debt	\$ 19,995	\$25,201	\$30,431
Shareholders' equity	\$ 67,388	\$62,836	\$59,673

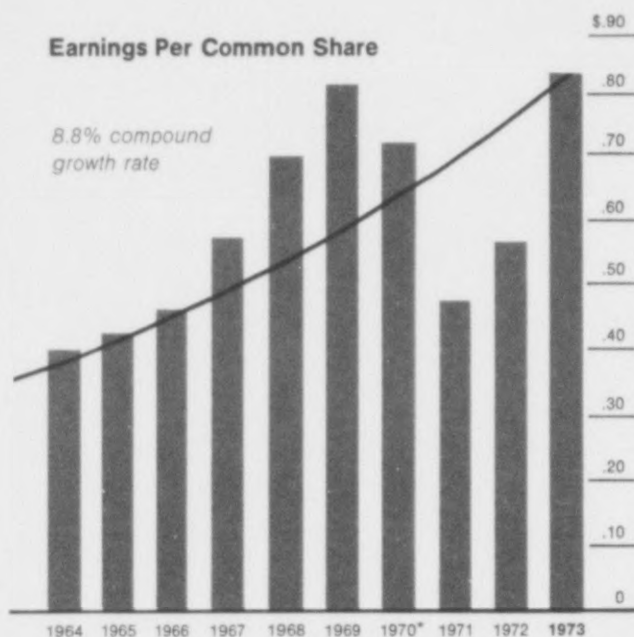
Per share data is adjusted for 3/1 and 4/1 stock splits in July, 1969 and January, 1964 and is based on average common shares outstanding each year.

\*Excludes extraordinary gain of \$886,000 or 11¢ per share.



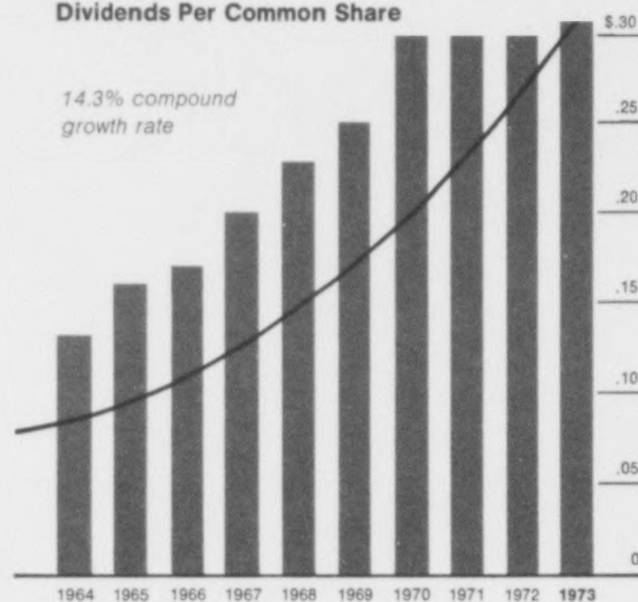
### Earnings Per Common Share

8.8% compound  
growth rate



### Dividends Per Common Share

14.3% compound  
growth rate



1970	1969	1968	1967	1966	1965	1964
\$84,421	\$74,895	\$57,288	\$56,507	\$52,023	\$45,293	\$40,136
\$ 6,064*	\$ 6,609	\$ 5,208	\$ 4,228	\$ 3,387	\$ 3,107	\$ 2,890
\$ .74*	\$ .83	\$ .72	\$ .59	\$ .48	\$ .44	\$ .41
\$ .30	\$ .25	\$ .23	\$ .20	\$ .17	\$ .16	\$ .13
\$15,395	\$12,917	\$ 4,324	\$ 3,018	\$ 2,442	\$ 2,513	\$ 3,171
\$ 2,874	\$ 2,330	\$ 1,853	\$ 1,735	\$ 1,563	\$ 1,498	\$ 1,443
7,821	7,750	7,329	7,325	7,354	7,364	7,358
11.5%*	15.9%	15.7%	14.8%	12.9%	12.9%	13.4%

\$22,413	\$21,166	\$17,985	\$17,772	\$ 9,528	\$ 9,797	\$ 9,249
3.3	3.1	4.0	4.0	2.6	2.6	2.8
\$49,007	\$36,312	\$23,459	\$20,969	\$19,676	\$18,823	\$17,815
\$21,500	\$12,102	\$ 6,000	\$ 6,100	\$ 520	\$ 220	
\$57,974	\$52,641	\$40,549	\$32,863	\$28,600	\$26,211	\$24,172

### Consolidated Statement of Income

for the years ended March 31, 1973 and 1972

	1973	1972
NET SALES	\$109,681,841	\$98,701,837
Cost of sales	<u>85,904,941</u>	<u>78,303,776</u>
Gross profit	23,776,900	20,398,061
Operating and general expenses	<u>13,099,614</u>	<u>12,286,924</u>
Income from operations	10,677,286	8,111,137
Other income, net	688,697	593,130
Interest expense, net	<u>(1,349,705)</u>	<u>(1,840,957)</u>
	10,016,278	6,863,310
Provision for income taxes (Note 5)	<u>4,671,329</u>	<u>2,989,287</u>
	5,344,949	3,874,023
Equity in net income of Unilever-Emery N.V. (Note 2)	<u>1,628,000</u>	<u>965,000</u>
NET INCOME	<u>\$ 6,972,949</u>	<u>\$ 4,839,023</u>
NET INCOME PER COMMON SHARE (Note 3)	<u>\$ .84</u>	<u>\$ .58</u>

### Consolidated Statement of Retained Earnings

for the years ended March 31, 1973 and 1972

	1973	1972
Beginning of year	\$38,060,783	\$35,854,824
Net income	6,972,949	4,839,023
	45,033,732	40,693,847
Dividends: Common — \$.305 per share in 1973	2,450,879	
— \$.30 per share in 1972		2,366,529
Preferred — \$4.00 per share	239,073	266,535
	2,689,952	2,633,064
End of year (Note 4)	\$42,343,780	\$38,060,783

See notes to financial statements.

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# Consolidated Balance Sheet

March 31, 1973 and 1972

	1973	1972
<b>Assets</b>		
Current assets		
Cash	\$ 2,764,203	\$ 2,336,332
Marketable securities, at cost (approximates market)	8,096,660	6,719,026
Accounts receivable	13,611,995	12,647,023
Dividend receivable (Note 2)	1,459,179	1,463,760
Inventories	18,996,988	18,537,573
Prepaid expenses	812,533	1,014,907
Total current assets	45,741,558	42,718,621
Property, plant and equipment		
Land	2,707,930	2,445,331
Buildings	17,577,491	16,879,282
Equipment	63,918,969	62,164,309
Construction in progress	1,926,666	1,755,518
	86,131,056	83,244,440
Less, allowance for depreciation and amortization	35,944,526	32,457,593
	50,186,530	50,786,847
Investment in Unilever-Emery N.V. (Note 2)	7,303,849	7,472,685
Other assets	2,506,650	2,232,988
Excess of purchase price over underlying net assets of businesses acquired	2,478,000	2,478,000
	<u>\$108,216,587</u>	<u>\$105,689,141</u>
<b>Liabilities</b>		
Current liabilities		
Accounts payable	\$ 6,643,795	\$ 4,313,050
Accrued expenses	4,302,930	4,131,384
Accrued income taxes	2,361,879	2,158,513
Current portion of long-term debt (Note 4)	345,838	2,332,166
Total current liabilities	13,654,442	12,935,113
Long-term debt (Note 4)	19,649,204	22,869,099
Deferred income taxes	6,550,048	5,838,613
Deferred investment tax credit (Note 5)	975,296	1,210,314
<b>Shareholders' Equity</b>		
Preferred shares, cumulative, without par value, Convertible Series A	3,430,386	5,601,440
Common shares, without par value	22,156,350	19,494,276
Retained earnings	42,343,780	38,060,783
	67,930,516	63,156,499
Less common shares in treasury, at cost	542,919	320,497
Total shareholders' equity (Notes 3, 4 and 7)	67,387,597	62,836,002
	<u>\$108,216,587</u>	<u>\$105,689,141</u>

See notes to financial statements.



# Consolidated Balance Sheet

March 31, 1973 and 1972

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	<u>\$108,216,587</u>	<u>\$105,689,141</u>

See notes to financial statements.

# Consolidated Statement of Changes in Financial Position

for the years ended March 31, 1973 and 1972

	1973	1972
<b>Sources:</b>		
From current operations:		
Net income	\$ 6,972,949	\$ 4,839,023
Add (deduct) items not involving funds:		
Depreciation and amortization	4,093,036	4,084,313
Deferred income taxes and investment tax credit	476,417	569,997
Other	(235,421)	(134,485)
Total sources from current operations	11,306,981	9,358,848
Stock options exercised	500,477	957,411
Distributions in excess of current earnings from Unilever-Emery N.V.	168,835	933,741
Total sources	<u>11,976,293</u>	<u>11,250,000</u>
<b>Applications:</b>		
Capital expenditures	3,648,927	2,004,249
Reductions of long-term debt	3,219,895	5,521,172
Common stock purchased	231,879	
Dividends	2,689,952	2,633,064
All other, net	(117,968)	738,210
Total applications	<u>9,672,685</u>	<u>10,896,695</u>
Net increase in working capital	<u>\$ 2,303,608</u>	<u>\$ 353,305</u>
<b>Analysis of Working Capital Changes:</b>		
	Increase (Decrease)	
Current asset changes:		
Cash and marketable securities	\$ 1,805,505	\$ 1,791,612
Inventories	459,415	(874,306)
Other current assets	758,017	398,854
Net change in current assets	<u>3,022,937</u>	<u>1,316,160</u>
Current liability changes:		
Accounts payable and accrued expenses	2,502,291	(460,709)
Taxes	203,366	1,132,078
Current portion of long-term debt	(1,986,328)	291,486
Net change in current liabilities	<u>719,329</u>	<u>962,855</u>
Net change in working capital	<u>\$ 2,303,608</u>	<u>\$ 353,305</u>

See notes to financial statements.

## Report of Certified Public Accountants

To the Shareholders and Board of Directors,  
Emery Industries, Inc.

We have examined the consolidated balance sheet of Emery Industries, Inc. and subsidiary companies as of March 31, 1973, and the related consolidated statements of income, retained earnings and changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. We previously examined and reported upon the consolidated financial statements for the year ended March 31, 1972.

In our opinion, the above referred to financial statements present fairly the consolidated financial position of Emery Industries, Inc. and subsidiary companies at March 31, 1973 and 1972, and the consolidated results of their operations and changes in financial position for the fiscal years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

*Coopers & Lybrand*

COOPERS & LYBRAND  
3800 Carew Tower  
Cincinnati, Ohio 45202

May 15, 1973  
**2117**

## Notes to Financial Statements

### Note 1 — Accounting Policies

The following is a summary of certain significant accounting policies followed in the preparation of these financial statements. The policies conform to generally accepted accounting principles and have been consistently applied. Certain 1972 amounts have been restated to conform to 1973 classifications.

#### Principles of Consolidation

The consolidated financial statements include the accounts of the Company and all of its domestic and international subsidiaries except for an insurance subsidiary which is included on an equity basis.

#### Investment in Unilever-Emery N. V.

The Company owns fifty percent of Unilever-Emery N.V. and consolidated subsidiaries. This investment is carried at cost plus equity in accumulated undistributed earnings since acquisition.

#### Foreign Currency Translation

The general policy followed in the translation of foreign currency items is to state assets (except net property, plant and equipment) and liabilities at rates of exchange prevailing at the end of the period. Net property, plant and equipment (and related depreciation) is translated at rates in effect on the dates of acquisition of the related assets. Earnings (other than depreciation) have been translated at rates of exchange in effect during the period. Translation adjustments resulting from normal fluctuations in exchange rates are included in income. Major foreign exchange revaluations or devaluations are deferred and amortized over appropriate periods.

#### Inventory Valuations

Inventories are valued at the lower of cost or market with costs determined principally on an average cost basis.

#### Property, Plant and Equipment

Property, plant and equipment is stated at cost. Depreciation and amortization is computed principally on a straight-line basis.

#### Deferred Income Taxes and Investment Tax Credits

Deferred income taxes arise principally from differences between the use of straight-line depreciation for financial reporting purposes and accelerated depreciation for tax purposes.

The investment tax credit is being amortized to income over the productive lives of the related assets.

#### Pension Plan Costs

Current service costs are accrued and funded on a

current basis. Past service costs are amortized and funded over periods of not more than 30 years.

#### Research and Development

Research and development costs are charged against income in the year in which such costs are incurred.

#### Excess of Purchase Price over Underlying Net Assets of Businesses Acquired

The excess of purchase price over underlying net assets of businesses acquired, all of which originated prior to November, 1970, is not being amortized because, in the opinion of management, there has been no decrease in value.

#### Per Share Data

Data per common share is based on the average number outstanding during each year after recognition of the preferred dividend requirements. Fully diluted net income per share, assuming the conversion of all Series A preferred stock and the exercise of stock options, is not materially different from the reported net income per share.

### Note 2 — International Operations

The Company's equity in international operations consists of:

	Unilever- Emery N.V.	Consolidated Wholly-owned Subsidiaries
Net assets at March 31, 1973 .....	\$ 8,150,550	\$ 6,497,022
Net sales for the years ended:		
March 31, 1973 .....	\$19,844,710	\$15,706,154
March 31, 1972 .....	\$19,023,027	\$15,034,493
Net income for the years ended (See Note 5):		
March 31, 1973 .....	\$ 1,628,000	\$ 330,853
March 31, 1972 .....	\$ 965,000	\$ 373,245
Dividends for the years ended (See Note 5):		
March 31, 1973 .....	\$ 1,796,835	
March 31, 1972 .....	\$ 1,898,741	

Unilever-Emery N.V. is a fifty percent owned enterprise located in The Netherlands. The consolidated wholly-owned subsidiaries are located in Australia, Canada and Mexico. In addition, the Company exports its products to many countries outside the United States. These operations are not included in the above amounts but are included in the consolidated results of the Company.

### Note 3 — Capital Shares

Common — The number of common shares authorized at March 31, 1973 was 25,000,000. Changes in common stock during the fiscal years 1973 and 1972 were as follows:

	Issued		Treasury	
	Shares	Amount	Shares	Amount
Balance,				
March 31, 1971 ...	7,891,027	\$18,400,513	37,279	\$320,497



Conversion of preferred shares ...	7,732	136,352		
Exercise of options ...	106,380	957,411		
Balance, March 31, 1972 ...	8,005,139	19,494,276	37,279	320,497
Conversion of preferred shares ...	123,123	2,171,054		
Exercise of options ...	44,330	491,020	(1,100)	(9,457)
Acquired ...			14,300	231,879
Balance, March 31, 1973 ...	8,172,592	\$22,156,350	50,479	\$542,919

At March 31, 1973 there were 433,939 common and treasury shares reserved for conversion of preferred stock, employees' stock options and employees' stock savings plans.

**Preferred** — The number of preferred shares authorized at March 31, 1973 was 650,000. Changes in preferred stock during the fiscal years 1973 and 1972 were as follows:

	Shares	Amount
Balance, March 31, 1971 .....	67,792	\$5,737,792
Conversion of preferred shares .....	(1,611)	(136,352)
Balance, March 31, 1972 .....	66,181	5,601,440
Conversion of preferred shares .....	(25,651)	(2,171,054)
Balance, March 31, 1973 .....	40,530	\$3,430,386

The series, terms and provisions of this stock may be determined by the Board of Directors. Each share of Series A (\$4 per share dividend) is convertible into 4.8 common shares, is callable at \$110 per share during fiscal 1974 scaling down to \$100 per share after October 31, 1978, and has a liquidating value of \$100 per share which was \$4,053,000 at March 31, 1973.

#### Note 4 — Long-Term Debt

	March 31, 1973
9¼ % Sinking Fund Debentures due in 1995 with annual sinking fund requirements of \$700,000 commencing in fiscal 1977 .....	\$14,000,000
5½ % Promissory Notes due in 1991 with annual prepayments of \$300,000 commencing in fiscal 1973 .....	5,700,000
Other .....	295,042
	19,995,042
Less current portion .....	345,838
	<u>\$19,649,204</u>

The Company has a loan agreement with banks providing for a revolving credit of \$8,000,000 (none of which is outstanding at March 31, 1973) evidenced by renewable ninety-day notes until June 30, 1974 at which time the Company can elect to replace such revolving credit with term loans. The term loans would be repayable over a five year period in installments commencing December 31, 1974. This agreement restricts the payment of cash dividends and the reacquiring of the Company's capital shares. At March 31, 1973, \$12,717,144 of retained earnings was available for the payment of cash dividends or reacquiring of the Company's capital shares. Similar but less restrictive provisions are in force with respect to the Company's other loan agreements.

#### Note 5 — Provision For Income Taxes

The provision for income taxes consists of United States, foreign and other income taxes as follows:

	1973	1972
Currently payable .....	\$4,194,912	\$2,419,290
Deferred .....	476,417	569,997
Total Provision .....	<u>\$4,671,329</u>	<u>\$2,989,287</u>

The provision includes estimated taxes payable on the anticipated distribution to the Company of unremitted income of Unilever-Emercy N.V. No provision has been made with respect to the balance of retained earnings of subsidiaries and Unilever-Emercy N.V., approximately \$8,400,000 at March 31, 1973. These earnings have been invested in facilities and other assets and, in some cases, have borne foreign income taxes which would serve to substantially offset any tax liability resulting from their distribution.

The provision also includes amortization of investment credit in the amount of \$360,454 and \$351,420 for fiscal 1973 and 1972, respectively.

#### Note 6 — Pensions

The Company and its subsidiaries have pension plans covering substantially all employees. The total pension expense for the fiscal years 1973 and 1972 was \$925,832 and \$849,885, respectively. The estimated unfunded past service liability was \$1,206,000 at March 31, 1973. There were no unfunded vested benefits at March 31, 1973.

#### Note 7 — Stock Option and Stock Savings Plans

The Company has a qualified stock option plan for certain employees and has assumed certain option grants outstanding of an acquired company. The option price shall be the market price on the date of grant. The term of each option shall not exceed five years and no option shall be exercisable within one year from date of grant. Options are generally exercisable in installments. The plan will terminate in 1977.

Changes during fiscal 1973 in options outstanding were as follows:

	Shares Subject To Option	Option Price Range per Share
Outstanding March 31, 1972 .....	222,535	\$ 8.64 — \$22.21
Exercised .....	(45,430)	\$ 8.64 — \$15.375
Cancelled .....	(5,167)	\$11.625 — \$15.375
Outstanding March 31, 1973 .....	<u>171,938</u>	\$ 8.64 — \$22.21

Options for 70,346 shares (\$8.64 to \$22.21 per share) were exercisable at March 31, 1973. Shares available for option at the close of the year were 42,457.

During fiscal 1973 the Company adopted the Employees' Stock Savings Plan and authorized 25,000 common treasury shares for sale beginning in fiscal 1974.

## Products and Consuming Industries

### Products

Stearic acids	Lanolin and derivatives
Oleic acids	Ethoxylated products
Dimer acids	Emulsifiers
Plasticizers	Surface active agents
Glycerine	Garment dryers and conveyors
Hydrogenated products	Condensates
Azelaic and pelargonic acids	Dye intermediates
Polyamide resins	Polyesters
Garment and drapery finishing equipment	Polymer modifiers
Drycleaning chemicals	Metal lubricants and rolling oils
Isostearic acids	Alkyd resins
Tall oil products	Candles
Synthetic resins	Foundry chemicals
Esters	Stearates
Textile chemicals	

### Consuming Industries

Adhesives	Man-made fibers
Agricultural chemicals	Metal castings
Apparel manufacturers	Metal foils
Candles	Metal working compounds
Coin-op laundries	Oil well servicing
Cosmetics and toiletries	Paints and other finishes
Detergents	Paper
Drugs and pharmaceuticals	Plastic additives
Emulsifiers and surfactants	Plastic resins
Fabricated plastic products	Powdered metals
Foods	Printing inks
Insecticides	Protective coatings
Jet engine lubricants	Retail drycleaners
Laundries — retail and industrial	Rubber
Lubricant additives	Shaving creams
Lubricating oils and greases	Soaps and cleaning compounds
	Textile products
	Tobacco products
	Waxes and polishes

### Executive Offices:

Carew Tower, Cincinnati, Ohio 45202

### Plants:

Cincinnati, Ohio  
 Linden, New Jersey  
 Lock Haven, Pennsylvania  
 Los Angeles, California  
 Louisville, Kentucky  
 Mauldin, South Carolina  
 Santa Fe Springs, California  
 Nitro, West Virginia  
 (Monsanto-Emery)  
  
 London, Ontario, Canada  
 Toronto, Ontario, Canada  
 Gouda, The Netherlands  
 (Unilever-Emery N.V.)  
 Sydney, Australia

### Annual Meeting

All Emery shareholders are cordially invited to attend our 1973 Annual Meeting. It will be held at 11:30 A.M. on June 22 in Parlor I of the Netherland Hilton Hotel, Cincinnati, Ohio.

### Transfer Agents:

The First National Bank of Cincinnati  
 Chemical Bank (New York)

### Registrars:

Fifth Third Bank (Cincinnati, Ohio)  
 Morgan Guaranty Trust  
 Company of New York

### Common Stock Listing:

New York Stock Exchange  
 Symbol — EI



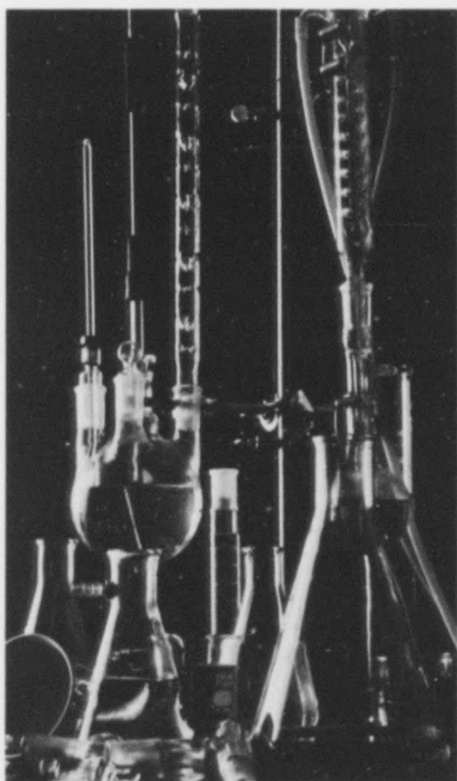
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**Products and Markets**  
**Emery Industries, Inc.**  
**1972**

Emery Industries, Inc. is a manufacturer of specialty chemicals used in a wide variety of products for consumer and industrial markets. Its excellent growth record is the result of an ability to increase its share of existing markets and open new ones through unique and exclusive technology. This report tells you about the many, diversified markets Emery serves with emphasis on some of the new and dramatic uses of Emery products.







Synthetic fibers, such as polyesters and nylons, continue to grow as replacements for natural fibers in the textile industry. The use of Emery polymer modifiers in man-made fibers enhances dyeability and enables direct tinting with conventional dyes.



### **A Solid Foundation For Growth**

Emery Industries continues to grow as a manufacturer and marketer of quality specialty chemicals with acknowledged leadership in the selected, high-growth markets it serves. Its outstanding growth record can be attributed, largely, to a unique technological ability to convert basic commodity raw materials into a wide variety of proprietary specialty chemicals. These products are used for new and existing applications in rapidly-growing consumer and industrial markets.

Emery has recently completed a substantial capital expansion program which has increased its Cincinnati capacity for low-cost production of major product lines by approximately 50%. This, coupled with selected acquisitions to supplement its internal capabilities, compounds Emery's potential for continuing growth.

From emphasis on specialty chemicals, capital additions and careful acquisitions, Emery has built a solid foundation to serve its customers in the 1970's.

### **Customer-Oriented Research Effective**

A substantial portion of Emery's technological know-how is directed towards specialty markets within the major markets it serves. Emery leads and excels in the development of profitable, proprietary products for these fast-growing specialty markets, including plastics, synthetic fibers, synthetic lubricants, cosmetics and adhesives.

Emery research is highly customer-oriented, aimed at developing chemicals which give final products the subtle

differences, refined properties, unusual appeal and high quality desired by Emery customers and the ultimate consumer.

### **Expanding Market For New Polymer Modifiers**

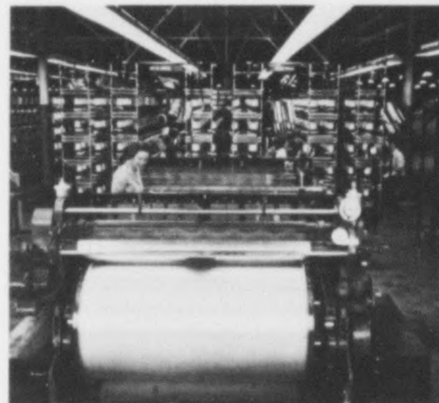
One of Emery's exciting new market opportunities lies in polymer modification. Its polymer modifiers, made from either dimer acid or Emery's unique high-purity azelaic acid, are used to modify synthetic fibers to improve their dyeability and impart anti-static characteristics. These man-made fibers include polyesters and nylons.

Emery modifiers form a link with the fiber chain. They serve as dye stations which permit deep penetration of the dye into the fabric with little or no sacrifice in fiber strength.

One potential use for these modifiers is in fibers destined for women's apparel. Another major end product for modified fibers is in the form of bulk continuous filament, used primarily in polyester yarn for high-grade carpeting.

Emery also contributes to the textile industry by supplying a line of textile processing aids, which serve primarily as lubricants in the processing of synthetic fibers, and a line of specialty dye intermediates. Emery also manufactures specialty textile chemicals which impart softness to finished fabrics consisting of the highly salable blends of man-made polyester fibers and cotton.

Since 1965, U. S. shipments and exports of man-made fibers have averaged a 10% increase per year, and the market is expected to continue this upward trend in



*High-speed operation of textile processing machinery requires many types of fiber and yarn lubricants. Emery manufactures a wide range of such lubricants as well as fabric softeners, surfactants and dye intermediates, all used in various phases of textile manufacturing.*



Construction equipment operating in extreme environments requires unusual specialty products to lubricate moving parts. Emery research has recently developed a new fluid for use under those conditions in crankcase and hydraulic applications.



High performance of two cycle engines is enhanced by a lubricant additive made from a unique Emery fatty acid. This additive is used in oils commonly added to gasoline for outboard motors, snowmobiles and other vehicles.

the 70's. With Emery's ever-increasing role in this market, the outlook for high growth is as bright as the colorful fabrics of today's fashions.

#### **Lubricants For Jets And Construction Equipment**

Esters of azelaic and pelargonic acids, fundamental raw materials for synthetic lubricants, today are increasingly used in lubricants for jet engines in commercial and military aviation. Synthetic lubricants for commercial aviation have a high growth potential in the years ahead with the market presently growing at a rate of over 15% a year.

With the help of Emery intermediates and base fluids, these lubricants meet rigid specifications for viscosity, lubricity, and stability at very low outside temperatures as well as high internal operating temperatures.

Recent research by Emery has resulted in the development of a new lubricant for heavy construction and military equipment operating in arctic environments. This new lubricant has a pour point of  $-85^{\circ}\text{F.}$ , far below that of standard petroleum oils, yet it maintains the lubricating characteristics of a normal petroleum oil at operating temperatures. Since the lubricant will not solidify, equipment can be shut down overnight.

A unique Emery fatty acid product also is used in lubricant additives for two-cycle engines customarily used for boats and snowmobiles. This additive is put into lubricating oils that are mixed directly with gasoline.

These are just two examples of Emery's ability to use in-house technical knowledge for opening new markets and maintaining existing ones through new product development and quality improvement of standard products.

#### **High Demand For Polyamide Resins In Inks**


Fast-drying flexographic and rotogravure inks for printing on non-absorbent surfaces such as plastic films and metallic foils are rapidly-growing uses for Emery polyamide resins. Use of flexographic inks is growing at the rate of 9% a year.

Research in this area is directed toward development of resins which will increase adhesion, abrasion resistance and freeze-thaw resistance of inks for foil and plastic food wraps.



*Synthetic lubricants are being used increasingly in jet engines. Emery esters of azelaic and pelargonic acids are important in the formulation of such synthetic lubricants.*





*Emery customers in the high-growth cosmetic industry are constantly searching for unique products which give their beauty aids a distinct and marketable difference. Emery's exclusive processes enhance its ability to serve this demand.*

### Unique Chemicals For The Cosmetic Industry

Emery's ever-increasing position in the cosmetic and toiletries market (a market growing at a rate of 10% annually) is a major factor in the company's future growth potential. Emery's exclusive isostearic acid, as well as its unique emulsifiers and emollients, continue to play important roles as fast-growing specialty items used in articles of haute luxe ranging from lipsticks to shave lotions. Another Emery product, dimethyl brassylate, is used in perfume formulations.

Increased production capabilities for very high grade fatty acids, esters and glycerine will help Emery expand its sales to the cosmetic industry. It has a number of patented processes for producing unusual chemicals which give beauty aids novel and highly salable qualities. These chemicals help Emery customers in their quest for the growing consumer dollar for toiletries including detergent bars, shaving creams, face powders, shampoos, facial creams, hand creams, toothpastes and many other products.

Malmstrom Chemical, a subsidiary, provides another opportunity for expansion with its specialty line of lanolin and lanolin-derived products. These are used as conditioners and moisturizers for cosmetic creams, hair preparations and numerous other products.

### Serving Markets Within Markets

Emery has had considerable success in serving new, fast-moving specialty segments of larger markets. The synthetic adhesives market (increasing at a rate of over 9% per year) serves as an excellent example.

Emery polyamide resins are used in the manufacture of various adhesives. Hot-melt adhesives represent another market segment with excellent potential. A growing, specialized use for these adhesives is in shoe construction. Emery's specialized products help adhesive application machines run efficiently. In addition, the adhesives contain no solvent and thus do not contribute to air pollution.

Polyamide-epoxy type adhesives are also used for industrial bonding. New applications for other adhesive resins are now being researched by Emery.

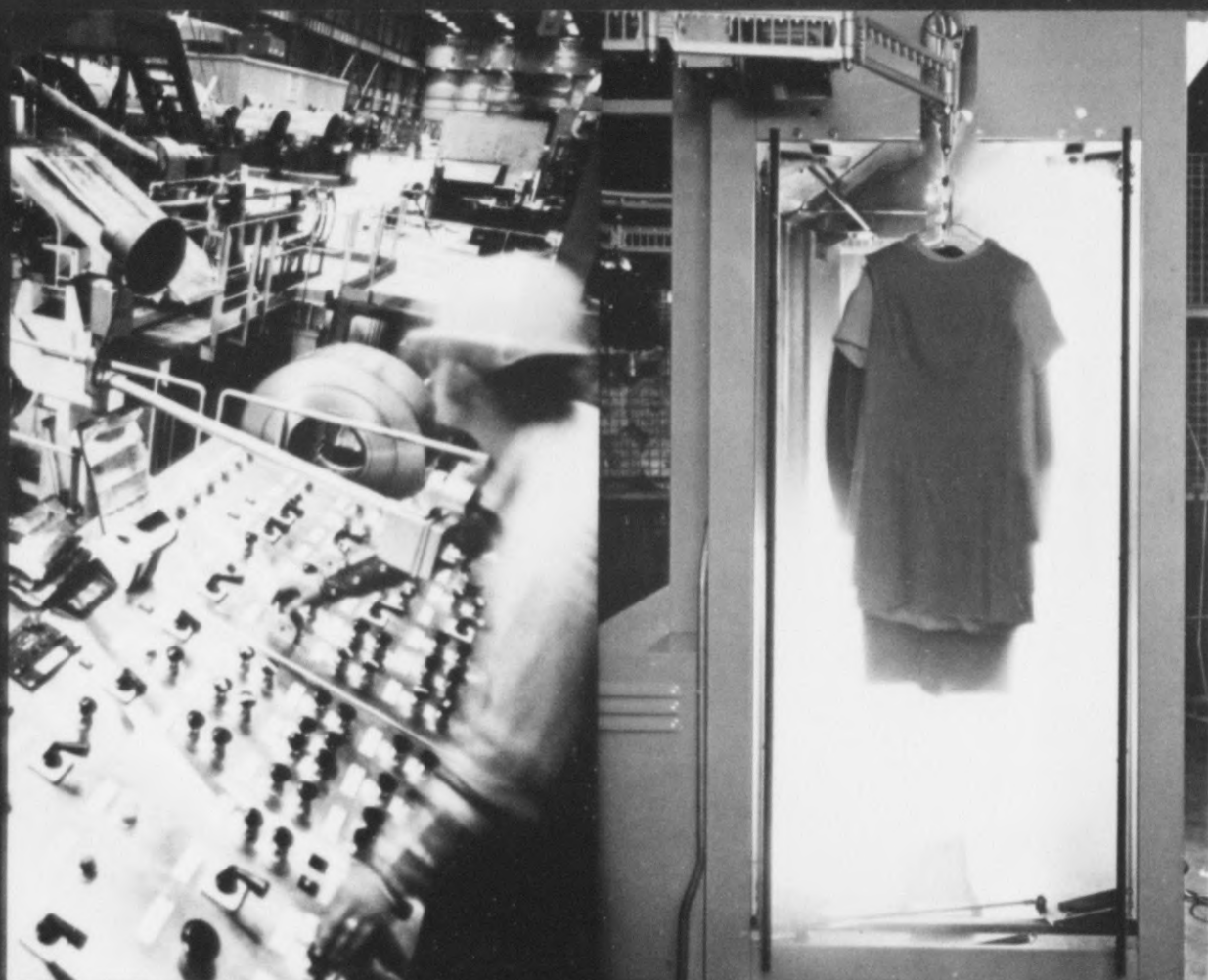
### Coatings For Industry And The Consumer

The completion in fiscal 1971 of a new plant to produce highly purified glycerine has helped Emery improve sales in the industrial and consumer paints and finishes market. Glycerine and fatty acids are employed in the production of alkyd resins for paints and finishes.

Much of Emery's effort in this area has been directed toward the rapidly growing industrial coatings market. Expanded capability for the production of pelargonic acid, used for appliance and automotive finishes, will be important to Emery in the 70's. The machinery, metal decorating, can manufacturing and wood furniture industries also use coatings made with Emery acids.

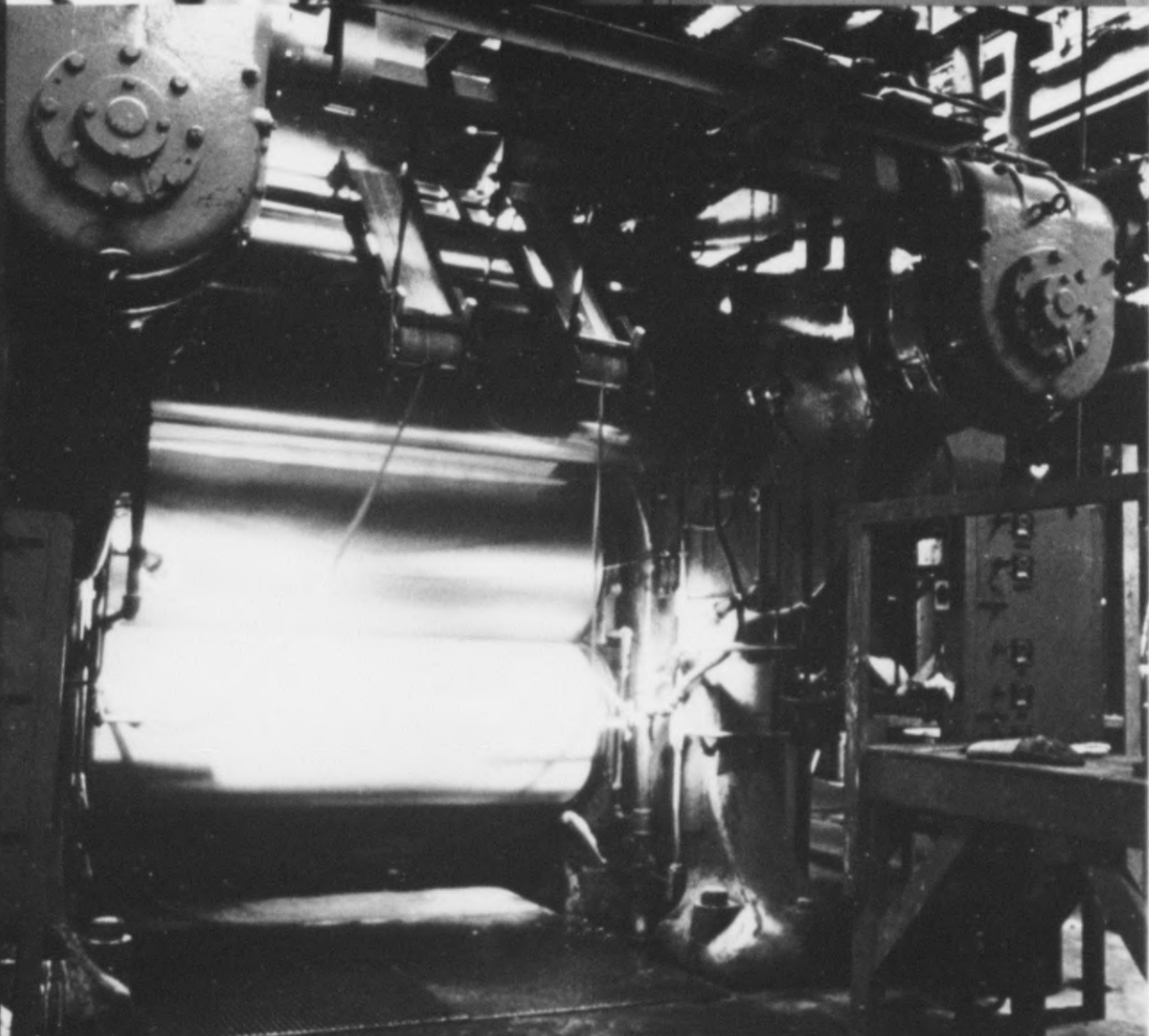


*Ice cream is just one of a wide variety of food products in which Emery surfactants and food grade fatty acids are used. Most are surfactants or emulsifiers, either of which help insoluble substances to mix, such as butter (an oily substance) with water.*



*Top left:*  
Mile-a-minute speeds in the cold rolling of sheet steel require quality metalworking lubricants. Emery fatty acids and derivatives are used in a recently developed line of highly specialized rolling oils which lubricate sheet steel as it is being rolled.

*Top right:*  
The steam tunnel is a relatively new development for drycleaners requiring a better way to finish garments made of the popular man-made fibers. Emery's subsidiary, Cissell Manufacturing, produces these tunnels as well as steam cabinets, a smaller version of the tunnel. In the tunnel, garments pass through steam to relax the fibers, then are dried by hot air. Clothes usually do not require pressing after this process.



*Bottom:*  
Specific Emery plasticizers are utilized in electrical vinyl tapes and other adhesive tapes. The plasticizers must remain in the vinyl and not migrate into the adhesive. If they do, the adhesive will soften and lose its ability to adhere. Shown is film being calendered prior to converting to tapes.



### Emery Growing In Plastics

Of the numerous rapidly-growing markets Emery serves, the plastics market continues to be its largest. Approximately 16% of Emery sales in fiscal 1972 were in this market, which has experienced an annual growth rate of over 10% since 1965.

An outstanding product line in this area is Emery's specialty vinyl plasticizers that give vinyl resins their flexibility and long-life properties. These high-performance plasticizers see application in vinyl resins for crash pads and other automobile accessories as well as for upholstery and trim for furniture, cars, buses and trucks.

Their ability to impart long life and softness at low temperatures satisfies customer demands in the production of vinyl outerwear and accessories such as jackets, boots, handbags and shoes. Other important applications for Emery plasticizers include vinyl pressure-sensitive tapes, wall coverings and wire insulation.

Two of Emery's unique, low-temperature plasticizers meet the requirements of the Food and Drug Administration for use in food wrap films.

### New Products For Drycleaners

Emery is a leading producer of specialty chemical products for the drycleaning industry. Premium products, such as detergents, water repellents and mothproofing agents, are sold exclusively to Emery's licensed Sanitone® drycleaners.

Cissell Manufacturing, an Emery subsidiary, is a major manufacturer of drying, finishing and spotting equipment for the dry-

cleaning and laundry industries. Cissell's product line is sold through some 1200 independent distributors to customers in the U.S. and in more than 67 foreign countries. This past year, Cissell introduced a new steam tunnel and a steam cabinet, both designed to help reduce labor costs in finishing garments made of the new synthetic fibers.

### Objectives Of The 70's

It is Emery's aim to continue to achieve a high growth rate in sales and earnings by . . .

Providing proprietary specialty products derived from customer-oriented research, exclusive technology and selected acquisitions.

Placing emphasis on end-use markets with high-growth rates and good profit margins.

Concentrating on new and specialized markets in which its technology and resources can be applied profitably.



*Football helmets represent one use of ABS resins. These resins are also used in the molding of many other consumer products. Various critical quality fatty acids, produced by Emery, are utilized in the emulsion polymerization process for making ABS and similar resins.*

## End Use Distribution, Fiscal 1972

Customer Use	Percent
Plastics: vinyl products, epoxy resins, and other plastics	16.3%
Textiles, natural and synthetic fibers and fabrics	9.2
Protective coatings: paints and varnishes, waxes and polishes	8.3
Drycleaning and laundry equipment	8.2
Synthetic lubricants, petroleum oils and greases, other petroleum products	8.0
Detergents and emulsifiers	6.9
Cosmetics and toiletries, drugs and pharmaceuticals	6.5
Synthetic rubber and fabricated rubber products	6.3
Chemical intermediates (metallic soaps, organic esters, etc.)	6.0
Adhesives and inks	4.8
Drycleaning chemicals	4.4
Soaps and cleaning compounds	2.7
Metalworking compounds	2.6
Other uses, including foods, agricultural uses, insecticides, and paper products.	9.8
<b>TOTAL</b>	<b>100.0%</b>

## After 47 Years of Service



Arthur W. Schubert

*"Men are men before they are lawyers, doctors or manufacturers; and if you help make them capable and sensible men, they will make themselves capable and sensible lawyers, doctors and manufacturers."*

These words, from the pen of John Stuart Mill, hold a great deal of meaning for me because they reflect my deepest conviction that none of Emery's accomplishments could have been possible without our greatest strength . . . that of Emery people. I remain firm in my belief that the first priority of any business is to create a climate which encourages healthy, imaginative and successful people.

Our philosophy has been one which gives our employees a feeling of proprietorship. And significantly, over 50% of

our salaried employees are shareholders. A job here is less a singular responsibility and more a cooperative effort to accomplish a goal.

When I joined Emery in 1924, total sales were \$1.5 million. Sales have grown more than 70-fold since then, and today we are financially stronger than at any time in our history. Through a dedication to progressive development of physical, financial and human resources, Emery will continue to grow and prosper.

*. . . Comments by A. W. Schubert, who retired as Chairman of the Board January 1, 1972.*

## Officers and Directors



**D. R. Hinkley**  
President

### Directors:

**John M. Archiabile**  
Vice President

**K. K. Boyd**  
Retired Vice President

**James R. Bridgeland, Jr.**  
Partner, Taft, Stettinius & Hollister

**George H. Brown, Jr.**  
Retired Chairman of the Board,  
Girard Bank

**John J. Emery**  
President, Thomas Emery's Sons, Inc.

**D. R. Hinkley**  
President

**Charles S. Mechem, Jr.**  
Chairman of the Board,  
Taft Broadcasting Company

**Paul R. Ilyinsky**  
Director and Secretary,  
Emery Realty, Inc.

**Daniel W. LeBlond**  
President, LeBlond Incorporated

**William S. Rowe**  
President, Fifth Third Bank

**Arthur W. Schubert**  
Chairman of the Executive Committee



**John M. Archiabile**  
Vice President,  
Manufacturing



**Jack C. Close**  
Vice President,  
Organic Chemicals Division



**David R. Eagleson**  
Vice President,  
Fatty Acid Division



**Charles G. Goebel**  
Vice President,  
Research and Development



**Albert H. Jordan**  
Vice President,  
Drycleaning Products Division



**Walter T. Meinert**  
Vice President,  
International Division



**L. H. Lanman**  
Secretary and  
Corporate Counsel



**N. D. Bachman**  
Treasurer



**John T. Gilligan**  
Controller

**Charles J. Eades**  
Assistant Secretary

**F. Dwight Lacy**  
Assistant Treasurer



Emery Industries, Inc.  
Annual Report 1972



## Products and Consuming Industries

### Products

Stearic acids	Lanolin and derivatives
Oleic acids	Ethoxylated products
Dimer acids	Emulsifiers
Plasticizers	Surface active agents
Glycerine	Garment dryers and conveyors
Hydrogenated products	Condensates
Azelaic and pelargonic acids	Dye intermediates
Polyamide resins	Polyesters
Garment and drapery finishing equipment	Polymer modifiers
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Isostearic acids	Alkyd resins
Tall oil products	Candles
Synthetic resins	Foundry chemicals
Esters	Stearates
Textile chemicals	

### Consuming Industries

Adhesives	Man-made fibers
Agricultural chemicals	Metal castings
Apparel manufacturers	Metal foils
Candles	Metal working compounds
Coin-op laundries	Oil well servicing
Cosmetics and toiletries	Paints and other finishes
Detergents	Paper
Drugs and pharmaceuticals	Plastic additives
Emulsifiers and surfactants	Plastic resins
Fabricated plastic products	Powdered metals
Foods	Printing inks
Insecticides	Protective coatings
Jet engine lubricants	Retail drycleaners
Laundries — retail and industrial	Rubber
Lubricant additives	Shaving creams
Lubricating oils and greases	Soaps and cleaning compounds
	Textile products
	Tobacco products
	Waxes and polishes

### Transfer Agents:

The First National Bank of Cincinnati  
Chemical Bank (New York)

### Registrars:

Fifth Third Bank (Cincinnati, Ohio)  
Morgan Guaranty Trust  
Company of New York

### Common Stock Listing:

New York Stock Exchange  
Symbol — EI

### Executive Offices:

Carew Tower, Cincinnati, Ohio 45202

### Plants:

Cincinnati, Ohio  
Linden, New Jersey  
Lock Haven, Pennsylvania  
Los Angeles, California  
Louisville, Kentucky  
Mauldin, South Carolina  
Santa Fe Springs, California  
Stamford, Connecticut  
Nitro, West Virginia  
(Monsanto-Emery)  
London, Ontario, Canada  
Toronto, Ontario, Canada  
Gouda, The Netherlands  
(Unilever-Emery N.V.)  
Sydney, Australia

### Annual Meeting

All Emery shareholders are cordially invited to attend our 1972 Annual Meeting. It will be held at 11:30 A.M. on June 23 in Parlor I of the Netherland Hilton Hotel, Cincinnati, Ohio.



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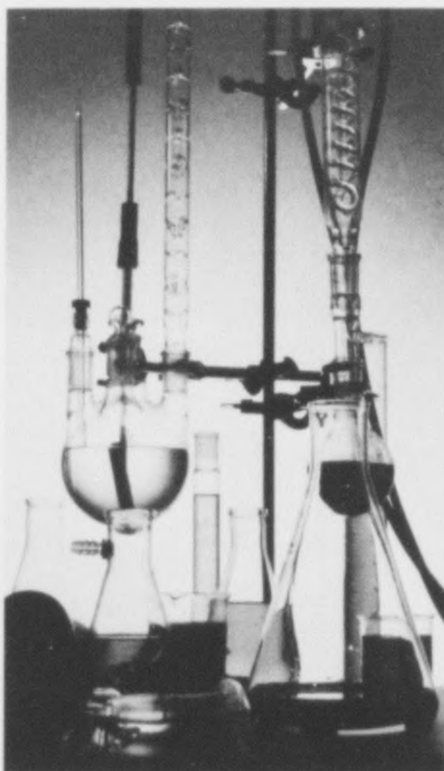
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**Financial Information  
Emery Industries, Inc.  
1972**

**Highlights of the Year**

	1972	1971	% Change
Net sales	\$98,702,000	\$87,651,000	+13%
Net income	\$ 4,839,000	\$ 4,084,000	+18%
Net income per common share	\$ .58	\$ .49	+18%
Cash dividends per common share	\$ .30	\$ .30	—
Capital expenditures	\$ 2,004,000	\$ 5,607,000	-64%
Depreciation and amortization	\$ 4,084,000	\$ 3,617,000	+13%



## To The Shareholders:

Profits increased 18% over last year, sales increased 13% and reached a new high for the eleventh consecutive year.

### Profits Up 18%

Net income was \$4,839,000 for the fiscal year ended March 31, 1972, an increase of 18%. Net income per common share was 58¢ this year versus 49¢ last year, also up 18%. Both figures are based on average common shares outstanding, 7,887,000 this year versus 7,840,000 last year.

In eight of the last ten years, Emery Industries has increased its profits over the previous year. Profits in 1972 were 2.7 times the profits earned in 1962, ten years earlier.

### Sales At \$98.7 Million, Up 13%

Net sales were \$98,702,000 for the fiscal year just ended, compared with \$87,651,000 for the previous year, an increase of 13%. In the last quarter of the fiscal year, sales were at an annual rate in excess of \$100 million. This represents the eleventh consecutive year in which sales increased, during which time sales more than tripled, from \$31 million to \$98 million.

### Overview of 1972

Difficult economic conditions restrained earnings in the early part of the fiscal year, but more recently this situation has improved. For the first two quarters of the fiscal year, Emery's profits were below the same periods the previous year. In the third and fourth fiscal quarters, however, profits were strongly above the same quarters the previous year. A number of factors contributed

to this profit growth, principally a gradual improvement in economic conditions, increased sales volume, a better product mix, and generally lower raw material prices. Also during fiscal 1971 and fiscal 1972 a number of major steps were taken to reduce costs and increase efficiency.

### Fourth Quarter Up Dramatically

The results of the fourth quarter of the fiscal year are particularly significant. Net income was \$1,539,000, up 184% from the same quarter the previous year. Earnings per common share were 19¢, up 217% from the previous year. Sales were \$26,519,000, up 12% from the same quarter a year ago. While earnings at this time last year were unusually low due to economic and non-recurring factors, nevertheless, it is reassuring that outstanding progress has been achieved in the most recent quarter.

### Quarterly Trend Significant

Earnings per share of 19¢ for the three months ended March 31, 1972 also represent a significant improvement over the reported per share earnings for the immediately preceding quarters of the fiscal year as illustrated below.



Thus, steady earnings improvement has been achieved during each quarter of the fiscal year.

#### **New York Stock Exchange Listing**

Emery's common shares started trading on the New York Stock Exchange in August, 1971, using the symbol "EI". This listing, achieving this long standing goal, should be of considerable advantage to the company's stockholders.

#### **Cash Dividends Paid**

Cash dividends of \$2,633,000 were paid on common and preferred shares during the fiscal year. The current annual dividend rate on the common shares is 30¢ per share. Emery has paid cash dividends on its common shares for 38 consecutive years.

#### **Director Change**

In May, 1972, John B. Hollister retired as a director after almost two decades of loyal and creative service. Charles S. Mechem, Jr., board chairman of Taft Broadcasting, joined the board of directors.

#### **Ecology**

As a corporation, and as individual citizens, we strongly support vigorous efforts to improve the quality of the environment. The company has made important progress in controlling air and water pollutants. Thus, we do not believe that unusually large additional future expenditures will be necessary for this purpose.

#### **Outlook**

We expect fiscal 1973 to be another year of progress for Emery Industries. We

thank our shareholders for their support of the company. We thank our employees everywhere for their effort and their dedication to Emery Industries.



*D. R. Hinkley*

D. R. Hinkley  
President  
June 2, 1972

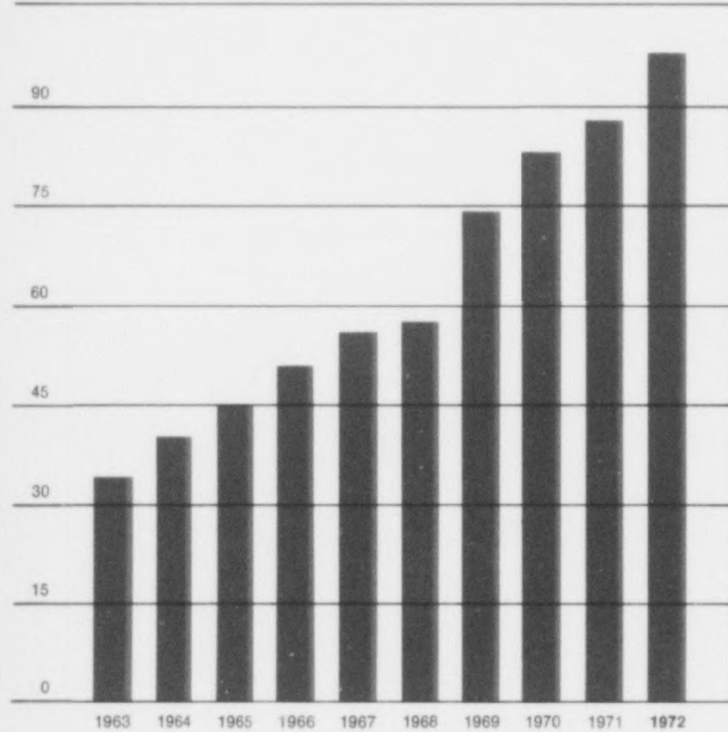


## 10 Year Financial Charts

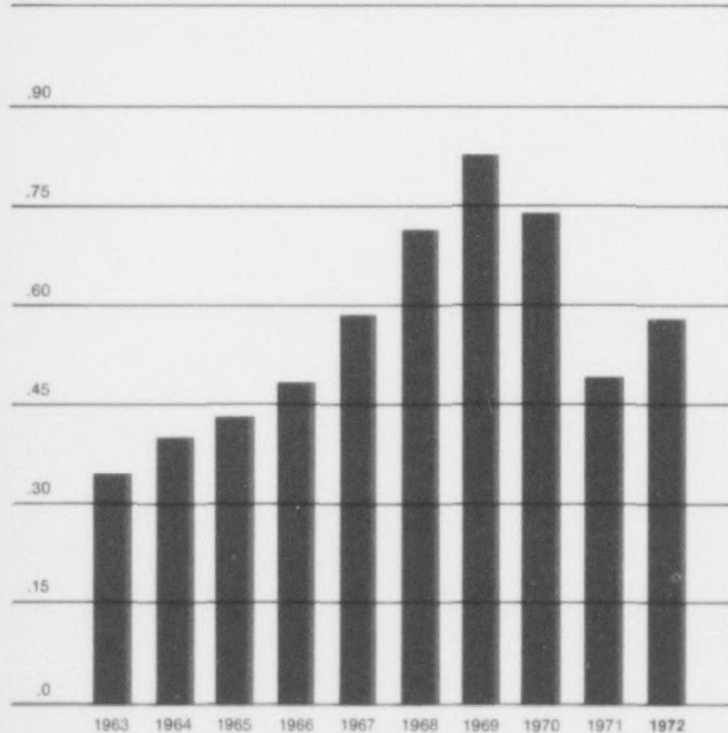
Fiscal Years Ended March 31st

**Net Sales** (in millions)

\$105



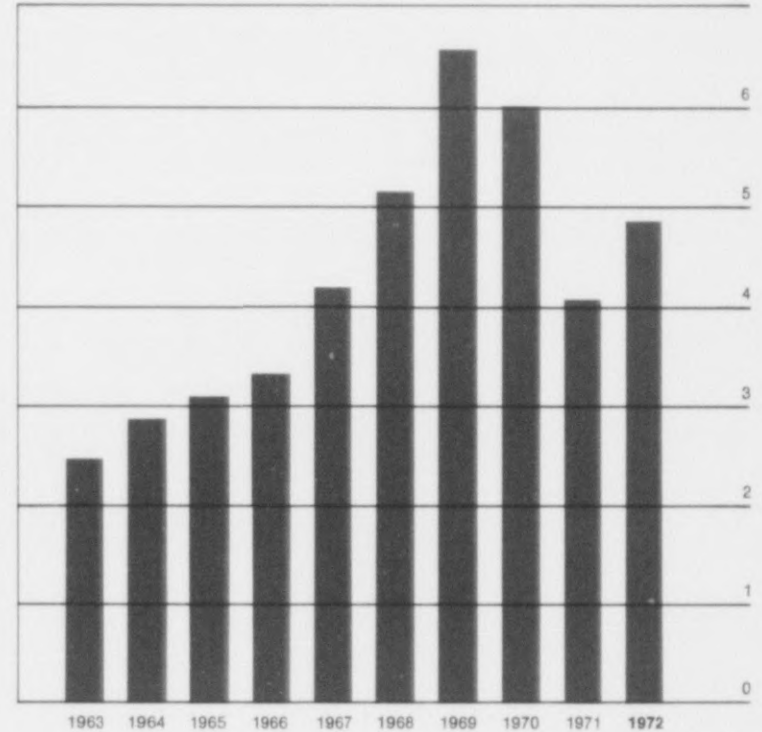
\$1.05



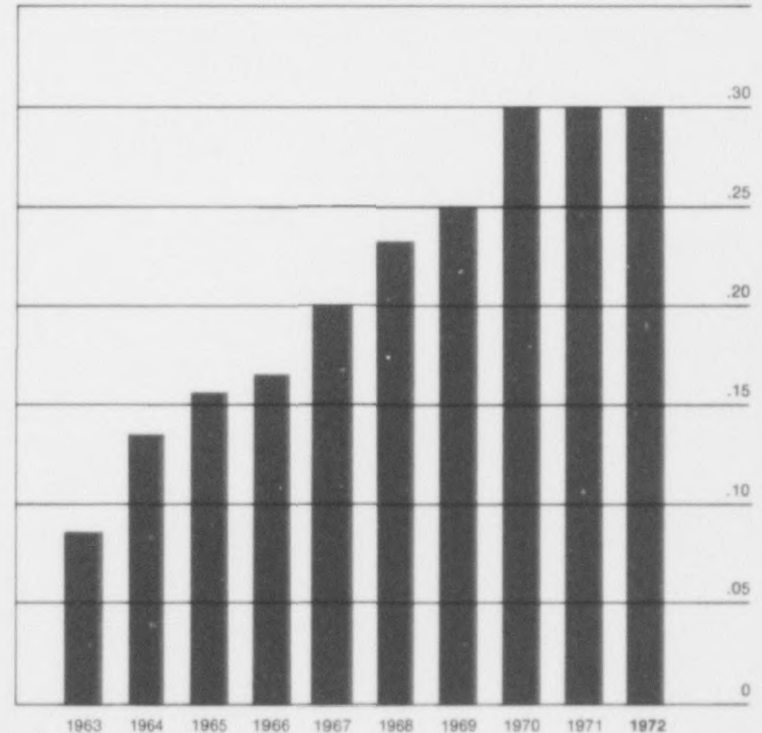
**Earnings Per Common Share**

**Net Income** (in millions)

\$7



\$ .35



**Dividends Per Common Share**

## Financial Review

Sales up 13%; Earnings up 18%

### Sales

Net sales for the fiscal year ended March 31, 1972 were a record \$98,702,000, an increase of 13% over the \$87,651,000 in 1971. If Emery's share of the sales of Unilever-Emery N.V. were included, the company's total sales would have been \$118 million. Eliminating sales of foreign acquisitions, included for the first time in fiscal 1972, sales increased 6%.

### Earnings

Net income for fiscal year 1972 was \$4,839,000, an increase of 18% over \$4,084,000 in 1971. Earnings per common share were 58¢ this year, an increase of 18% over 49¢ last year.

Earnings per common share are based on 7,887,190 average shares this year and 7,840,087 average shares last year. No dilution of earnings per common share would result from the assumed conversion of the Series A preferred stock and the exercise of stock options.

### Common Share Dividends

Quarterly cash dividends of 7½¢ per common share were paid during the year:

June 1, 1971	7½¢	December 1, 1971	7½¢
September 1, 1971	7½¢	March 1, 1972	7½¢

Emery has paid cash dividends for 38 consecutive years.

### Bank Funds Available

Credit facilities with banks have been extended two years and the amount raised by \$2 million. A total of \$8 million is now available under a July 1, 1972 two-year revolving credit and five-year term loan agreement. No funds have been borrowed under this arrangement.

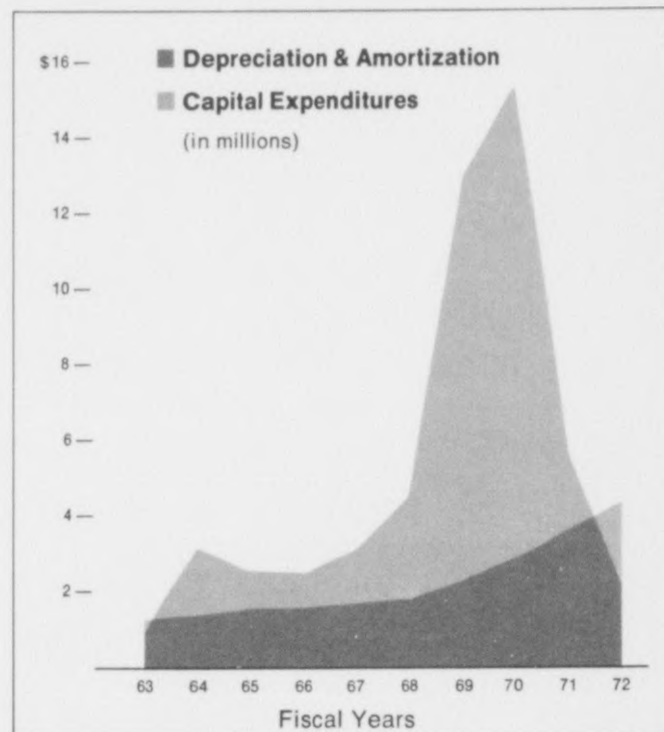
During fiscal 1972, \$5.2 million of foreign and domestic bank loans were repaid.

### International Monetary Changes

While international monetary developments adversely affected the economies of many countries throughout the world, Emery realized a gain as a result of the currency adjustments. The 1971 agreement to realign parities of national currencies resulted in a gain of 2¢ per share this year. The effect occurred in the fourth quarter and was caused by increased valuation of foreign income, principally because of greater value of the Dutch Guilder. The additional gain in net assets of several overseas companies will be translated into income over appropriate periods.

### Capital Expenditures

Capital expenditures were \$2.0 million this year, compared with \$5.6 million last year. The continued



moderate level of capital expenditures reflects the utilization of the additional facilities provided in the prior plant expansion program. By contrast, in 1969 and 1970, a total of \$28 million was spent.

Depreciation in fiscal 1972 amounted to \$4.1 million, an increase of 13% over the \$3.6 million applicable the previous year. The magnitude of the capital expansion program and increased depreciation is illustrated by the chart above.

### Effective Tax Rate

The effective tax rate was 5% less than the normal corporate tax rate this year, principally because of amortization of the investment tax credit. This year's rate was above last year's because rising income reduced the effect of the investment tax credit.

### Disc

In February 1972, a Domestic International Sales Corporation (DISC) was established. The company was organized to promote and increase export sales.

### Financial Condition

Emery's financial condition continues strong. Cash and equivalent amounts remain substantial even after \$5.2 million of debt payments. Net working capital was \$29.8 million with the current ratio 3.3 to 1. Total long-term debt has been reduced to \$25.2 million, or 29% of total capitalization at book value.

## 10 Year Review

Dollars in Thousands (except per share data)

Fiscal Years Ended March 31st.	1972	1971	1970
<b>Annual Results</b>			
Net sales	\$98,702	\$87,651	\$84,421
Net income	\$ 4,839	\$ 4,084	\$ 6,064*
Per common share:			
Net income	\$ .58	\$ .49	\$ .74*
Cash dividends paid	\$ .30	\$ .30	\$ .30
Capital expenditures	\$ 2,004	\$ 5,607	\$15,395
Depreciation and amortization	\$ 4,084	\$ 3,617	\$ 2,874
Average common shares outstanding (000s)	7,887	7,840	7,821
Return on shareholders' equity at beginning of year	8.1%	7.0%	11.5%*
<b>Financial Position at Year-End</b>			
Net working capital	\$29,784	\$29,430	\$22,413
Current ratio	3.3	3.5	3.3
Net plant	\$50,787	\$52,885	\$49,007
Long-term debt	\$25,201	\$30,431	\$21,500
Shareholders' equity	\$62,836	\$59,673	\$57,974

Per share data is adjusted for 3/1 and 4/1 stock splits in July, 1969 and January, 1964 and is based on average common shares outstanding each year.

\*Excludes extraordinary gain of \$886,000 or 11¢ per share.



1969	1968	1967	1966	1965	1964	1963
\$74,895	\$57,288	\$56,507	\$52,023	\$45,293	\$40,136	\$35,204
\$ 6,609	\$ 5,208	\$ 4,228	\$ 3,387	\$ 3,107	\$ 2,890	\$ 2,487
\$ .83	\$ .72	\$ .59	\$ .48	\$ .44	\$ .41	\$ .36
\$ .25	\$ .23	\$ .20	\$ .17	\$ .16	\$ .13	\$ .08
\$12,917	\$ 4,324	\$ 3,018	\$ 2,442	\$ 2,513	\$ 3,171	\$ 894
\$ 2,330	\$ 1,853	\$ 1,735	\$ 1,563	\$ 1,498	\$ 1,443	\$ 1,380
7,750	7,329	7,325	7,354	7,364	7,358	7,324
15.9%	15.7%	14.8%	12.9%	12.9%	13.4%	12.7%
\$21,166	\$17,985	\$17,772	\$ 9,528	\$ 9,797	\$ 9,249	\$ 8,421
3.1	4.0	4.0	2.6	2.6	2.8	2.8
\$36,312	\$23,459	\$20,969	\$19,676	\$18,823	\$17,815	\$16,112
\$12,102	\$ 6,000	\$ 6,100	\$ 520	\$ 220		
\$52,641	\$40,549	\$32,863	\$28,600	\$26,211	\$24,172	\$21,597

## Consolidated Statement of Income

for the years ended March 31, 1972 and 1971

	1972	1971
NET SALES	\$98,701,837	\$87,651,003
Cost of sales	<u>78,868,261</u>	<u>70,316,938</u>
Gross profit	19,833,576	17,334,065
Operating and general expenses	<u>12,286,924</u>	<u>11,470,668</u>
Income from operations	7,546,652	5,863,397
Other income, net	593,130	760,857
Interest expense, net	<u>(1,840,957)</u>	<u>(1,768,756)</u>
	6,298,825	4,855,498
Provision for income taxes (Note 7)	<u>2,718,334</u>	<u>1,940,961</u>
	3,580,491	2,914,537
Equity in net income of fifty percent owned enterprises (Note 3)	<u>1,258,532</u>	<u>1,169,744</u>
NET INCOME	<u>\$ 4,839,023</u>	<u>\$ 4,084,281</u>
NET INCOME PER COMMON SHARE (Notes 4 and 11)	<u>\$ .58</u>	<u>\$ .49</u>

## Consolidated Statement of Retained Earnings

for the years ended March 31, 1972 and 1971

	1972	1971
Beginning of year	\$35,854,824	\$34,394,451
Net income	<u>4,839,023</u>	<u>4,084,281</u>
	40,693,847	38,478,732
Dividends: Common — \$.30 per share	2,366,529	2,351,940
Preferred — \$4.00 per share	<u>266,535</u>	<u>271,968</u>
	2,633,064	2,623,908
End of year (Note 10)	<u>\$38,060,783</u>	<u>\$35,854,824</u>

# Consolidated Balance Sheet

March 31, 1972 and 1971

	1972	1971
<b>Assets</b>		
Current assets		
Cash	\$ 2,336,332	\$ 1,946,284
Marketable securities, at cost (approximates market)	6,719,026	5,317,462
Accounts receivable	12,647,023	13,177,485
Dividend receivable (Note 3)	1,463,760	
Inventories	18,537,573	19,411,879
Prepaid expenses	1,014,907	1,549,351
Total current assets	42,718,621	41,402,461
Property, plant and equipment		
Land	2,445,331	2,317,186
Buildings	16,879,282	16,577,435
Equipment	62,164,309	59,150,549
Construction in progress	1,755,518	3,336,883
	83,244,440	81,382,053
Less, allowance for depreciation and amortization	32,457,593	28,497,434
	50,786,847	52,884,619
Investment in fifty percent owned enterprises (Note 3)	8,137,980	8,937,238
Other assets	1,567,693	810,294
Excess of purchase price over underlying net assets of businesses acquired	2,478,000	2,479,479
	<u>\$105,689,141</u>	<u>\$106,514,091</u>
<b>Liabilities</b>		
Current liabilities		
Accounts payable	\$ 4,313,050	\$ 5,655,275
Accrued expenses	4,131,384	3,249,868
Accrued United States and foreign income taxes	2,158,513	1,026,435
Current portion of long-term debt (Note 6)	2,332,166	2,040,680
Total current liabilities	12,935,113	11,972,258
Long-term debt (Note 6)	22,869,099	28,390,271
Deferred income taxes	5,838,613	4,960,753
Deferred investment tax credit (Note 7)	1,210,314	1,518,177
<b>Shareholders' Equity</b>		
Preferred shares, cumulative, without par value; authorized 650,000 shares:		
Convertible Series A, liquidating preference \$6,618,100 at March 31, 1972	5,601,440	5,737,792
Common shares, without par value	19,494,276	18,400,513
Retained earnings	38,060,783	35,854,824
	63,156,499	59,993,129
Less treasury shares, at cost	320,497	320,497
Total shareholders' equity (Notes 4, 5, 9 and 10)	62,836,002	59,672,632
	<u>\$105,689,141</u>	<u>\$106,514,091</u>

See notes to financial statements.

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# Consolidated Statement of Changes in Financial Position

for the years ended March 31, 1972 and 1971

	1972	1971
<b>Sources:</b>		
From current operations:		
Net income	\$ 4,839,023	\$ 4,084,281
Add (deduct) items not involving funds:		
Depreciation and amortization	4,084,313	3,616,673
Deferred income taxes and investment tax credit	569,997	1,043,365
Fifty percent owned enterprises:		
Equity in net income	(1,258,532)	(1,169,744)
Distributions from current earnings	1,124,047	516,566
Total sources from current operations	9,358,848	8,091,141
Stock options exercised	957,420	238,575
Additions to long-term debt		22,190,271
Fifty percent owned enterprises:		
Redemption of preferred shares		1,496,552
Additional distributions	933,741	
Total sources	11,250,009	32,016,539
<b>Applications:</b>		
Capital expenditures	2,004,249	5,607,324
Purchase of subsidiaries, less \$1,979,453 working capital acquired		1,905,072
Reductions of long-term debt	5,521,172	14,300,000
Dividends	2,633,064	2,623,908
All other, net	738,219	562,882
Total applications	10,896,704	24,999,186
Net change in working capital	\$ 353,305	\$ 7,017,353
<b>Analysis of Working Capital Changes:</b>		
	Increase	(Decrease)
Current asset changes:		
Cash and marketable securities	\$ 1,791,612	\$ 2,826,772
Inventories	(874,306)	4,921,145
Other current assets	398,854	1,658,475
Net change in current assets	1,316,160	9,406,392
Current liability changes:		
Accounts payable and accrued expenses	(460,709)	1,094,099
Taxes	1,132,078	254,260
Current portion of long-term debt	291,486	1,040,680
Net change in current liabilities	962,855	2,389,039
Net change in working capital	\$ 353,305	\$ 7,017,353

## Report of Certified Public Accountants

To the Shareholders and Board of Directors,  
Emery Industries, Inc.

We have examined the consolidated balance sheet of Emery Industries, Inc. and subsidiary companies as of March 31, 1972, and the related consolidated statements of income, retained earnings and changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. We previously examined and reported upon the consolidated financial statements for the year ended March 31, 1971.

See notes to financial statements.

In our opinion, the above referred to financial statements present fairly the consolidated financial position of Emery Industries, Inc. and subsidiary companies at March 31, 1972 and 1971, and the consolidated results of their operations and changes in financial position for the fiscal years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

LYBRAND, ROSS BROS. & MONTGOMERY  
38th Floor, Carew Tower  
Cincinnati, Ohio 45202

May 18, 1972

## Notes to Financial Statements

### Note 1 — Accounting Policies

The following is a summary of certain significant accounting policies followed in the preparation of these financial statements. The policies conform to generally accepted accounting principles and have been consistently applied.

#### Principles of Consolidation

The consolidated financial statements include the accounts of the Company and all of its domestic and foreign subsidiaries except a newly formed insurance subsidiary which is included on an equity basis.

#### Investment in Fifty Percent Owned Enterprises

The investment in fifty percent owned enterprises is carried at cost plus equity in accumulated undistributed earnings since acquisition.

#### Foreign Currency Translation

The general policy followed in the translation of foreign currency items is to state assets (except net property, plant and equipment) and liabilities at rates of exchange prevailing at the end of the period. Net property, plant and equipment is translated at rates in effect on the dates of acquisition of the related assets. Earnings have been translated at rates of exchange in effect during the period, adjusted to reflect depreciation and amortization charges based on historical dollar costs. Translation adjustments resulting from normal fluctuations in exchange rates are included in income. Major foreign exchange revaluations or devaluations are deferred and amortized over appropriate periods.

#### Inventory Valuations

Inventories are valued at the lower of cost or market with costs determined principally on an average cost basis.

#### Property, Plant and Equipment

Property, plant and equipment is stated at cost. Depreciation and amortization is computed principally on a straight-line basis.

#### Deferred Income Taxes and Investment Tax Credits

Deferred income taxes arise principally from differences between the use of straight-line depreciation for financial reporting purposes and accelerated depreciation for tax purposes.

The investment tax credit is being amortized to income over the estimated productive lives of the related assets.

### Pension Plan Costs

Current service costs are accrued and funded on a current basis. Past service costs are amortized and funded over periods of not more than 30 years.

### Excess of Purchase Price over Underlying Net Assets of Businesses Acquired

The excess of purchase price over underlying net assets of businesses acquired, all of which originated prior to October, 1970, is not being amortized because, in the opinion of management, there has been no decrease in value.

### Note 2 — Foreign Operations

The contribution to net income by the Company's subsidiaries outside the United States was \$373,245 in fiscal 1972 and \$253,353 in fiscal 1971. Net sales of the consolidated foreign subsidiaries amounted to 15% of total net sales in 1972 and 10% in 1971. Net foreign assets, exclusive of investment in Unilever-Emery N.V., were \$5,489,501 at March 31, 1972.

### Note 3 — Investment in Fifty Percent Owned Enterprises

The Company's equity in the net assets, as shown by the books of these enterprises at March 31, 1972, was \$8,319,385 for Unilever-Emery N.V. and consolidated subsidiaries (foreign) and \$665,295 for Monsanto-Emery. The equity in net income of fifty percent owned enterprises for the years ended March 31, 1972 and 1971 includes the Company's share of net income of Unilever-Emery N.V. in the amounts of \$965,000 and \$1,011,000, respectively. During fiscal 1972, Unilever-Emery N.V. paid dividends of \$719,298. In March, 1972 Unilever-Emery N.V. declared a dividend of \$3,081,600, paid in April. The Company's share was \$359,649 and \$1,540,800, respectively. (See Note 7).

### Note 4 — Common Shares

The number of shares authorized at March 31, 1972 was 25,000,000. Changes in common stock during the fiscal years 1972 and 1971 were as follows:

	Issued		Treasury	
	Shares	Amount	Shares	Amount
Balance March 31, 1970	7,864,667	\$18,154,940	38,417	\$330,124
Conversion of preferred shares	960	16,928		
Exercise of options	25,400	228,645	(1,155)	(9,930)
Acquired			17	303
Balance March 31, 1971	7,891,027	18,400,513	37,279	320,497
Conversion of preferred shares	7,732	136,343		
Exercise of options	106,380	957,420		
Balance March 31, 1972	8,005,139	\$19,494,276	37,279	\$320,497

At March 31, 1972, there were 567,595 unissued shares and 9,900 treasury shares reserved for conversion of preferred stock and employees' stock options.

#### Note 5 — Preferred Shares

The series, terms and provisions of this stock may be determined by the Board of Directors. At March 31, 1972, there were outstanding 66,181 shares designated as Series A. During fiscal 1972, 1,611 preferred shares were converted into 7,732 common shares. Each share of Series A (\$4 per share dividend) is convertible into 4.8 common shares, is callable at \$110 per share during fiscal 1974 scaling down to \$100 per share after October 31, 1978, and has a liquidating value of \$100 per share.

#### Note 6 — Long-Term Debt

	March 31, 1972
9¼% Sinking Fund Debentures due in 1995 with annual sinking fund requirements of \$700,000 commencing in fiscal 1977 .....	\$14,000,000
5½% Promissory Notes due in 1991 with annual prepayments of \$300,000 commencing in fiscal 1973 .....	6,000,000
Promissory Notes (interest currently 5½%, maximum 6¼%) maturing in 1974, due \$2,000,000 in fiscal 1973; \$2,500,000 in fiscal 1974 .....	5,000,000
Other .....	201,265
	25,201,265
Less current portion .....	2,332,166
	<u>\$22,869,099</u>

The Company has amended its loan agreement with banks to provide for a revolving credit of \$8,000,000 (none of which is outstanding at March 31, 1972) evidenced by renewable ninety-day notes until June 30, 1974 at which time the Company can elect to replace such revolving credit with term loans. The term loans would be repayable over a five year period in installments commencing December 31, 1974.

#### Note 7 — Provision for Income Taxes

The provision for income taxes consists of United States, foreign and other income taxes as follows:

	1972	1971
Currently payable .....	\$2,148,337	\$ 897,596
Deferred .....	569,997	1,043,365
Total Provision .....	<u>\$2,718,334</u>	<u>\$1,940,961</u>

The provision includes estimated taxes payable on the anticipated distribution to the Company of unremitted income of Unilever-Emery N.V. The balance of unremitted income of foreign subsidiaries and Unilever-Emery N.V. has been invested in facilities and other assets.

The provision also includes amortization of investment credit in the amount of \$351,420 and \$350,564 for fiscal

1972 and 1971, respectively.

#### Note 8 — Pensions

The Company and its subsidiaries have pension plans covering substantially all employees. The total pension expense for the fiscal years 1972 and 1971 was \$849,885 and \$756,542, respectively. The estimated unfunded past service liability was \$1,260,000 at March 31, 1972. There were no unfunded vested benefits at March 31, 1972.

#### Note 9 — Stock Option and Stock Ownership Plan

The Company has a qualified stock option plan for certain employees and has assumed certain option grants outstanding of an acquired company. The term of each option shall not exceed five years and no option shall be exercisable within one year from date of grant. Options are generally exercisable in installments. The plan will terminate in 1977.

Changes during fiscal 1972 in options outstanding were as follows:

	Shares Subject to Option	Option Price Range per Share
Outstanding March 31, 1971 .....	187,780	\$ 8.64 — \$22.2083
Issued .....	142,960	\$11.625 — \$13.75
Exercised .....	(106,380)	\$ 9.00
Cancelled .....	(1,825)	\$ 8.64 — \$18.625
Outstanding March 31, 1972 .....	<u>222,535</u>	\$ 8.64 — \$22.2083

Options for 23,365 shares (\$8.64 to \$22.2083 per share) were exercisable at March 31, 1972. Shares available for option at the close of the year were 37,290.

#### Note 10 — Restrictions on Retained Earnings

Retained earnings at March 31, 1972 is comprised of the following:

Emery Industries and consolidated subsidiaries and Monsanto-Emery, a joint venture .....	\$31,717,082
Unilever-Emery N.V. (foreign) .....	6,343,701(a)
	<u>\$38,060,783(b)</u>

- (a) Distributable to the Company with approval of the other fifty percent owner.
- (b) Under the \$8,000,000 loan agreement with banks (see Note 6) \$8,666,332 at March 31, 1972 is available for the payment of cash dividends or for the reacquiring of the Company's capital shares. Similar but less restrictive provisions are in force with respect to the Company's other loan agreements.

#### Note 11 — Per Share Data

Data per common share is based on the average number outstanding during each year after recognition of the preferred dividend requirements. Fully diluted net income per share, assuming the conversion of all Series A preferred stock and the exercise of stock options, is not materially different from the reported net income per share.



Emery Industries, Inc.

Annual Report, 1971



## Emery Industries, Inc.

Annual Report for the fiscal year  
ended March 31, 1971

Emery is a manufacturer of specialty chemicals  
used in a wide variety of consumer and industrial  
goods, as portrayed by the cover photo.

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## Highlights of the Year

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	1971	1970	% Change
Net sales	\$87,651,000	\$84,421,000	+ 4%
Net income*	\$ 4,084,000	\$ 6,064,000	- 33%
Net income per common share*	\$ .49	\$ .74	- 34%
Cash dividends paid per common share	\$ .30	\$ .30	
Capital expenditures	\$ 5,607,000	\$15,395,000	- 64%
Depreciation and amortization	\$ 3,617,000	\$ 2,874,000	+ 26%

\*Excludes extraordinary gain of \$886,000 or 11¢ per share in 1970.



## To Our Shareholders

A new high in sales for the tenth consecutive year was reached by Emery Industries, Inc. in the fiscal year ended March 31, 1971.

### **Sales Hit New Record, Up 4%**

Net sales were \$87,651,000 for the year just ended, compared with \$84,421,000 for the previous year, an increase of 4%. This represents the tenth consecutive year in which sales have increased.

### **Net Income Declines**

Net income was \$4,084,000 for the year ended March 31, 1971, compared with \$6,064,000 last year, excluding fiscal 1970's extraordinary gain, a decline of 33%. Net income for both years includes Emery's share of income from its two joint ventures, Unilever-Emery N.V. and Monsanto-Emery.

### **Earnings Per Common Share Off**

Net income per common share was 49¢ this year versus 74¢ last year, excluding 1970's extraordinary gain. Both figures are based on average common shares outstanding, 7,840,000 shares this year versus 7,821,000 shares last year.

### **Net Income Results Explained**

A number of factors adversely affected income this year. First, as a result of general economic conditions, sales volume and pricing were lackluster in many areas of our chemical and dry-cleaning operations. Second, raw material prices of bleachable fancy tallow, our principal raw material, and other raw materials continued at abnormally high levels during the year. Third, depreciation and interest expense totaled \$5.4 million, amounts incurred primarily in connection with our plant expansion program. Fourth, the strikes at General Motors and other customers' plants hurt earnings during the fiscal year. Also, there was

a 45 day strike at our Cissell dry-cleaning equipment plant. Fifth, as a result of the year-end physical inventory at Cissell, an adjustment was made to reduce net income by approximately 3¢ per share. General economic conditions and abnormally high raw material prices also adversely affected our joint venture in Europe, Unilever-Emery N.V.

### **Two Foreign Acquisitions Accomplished**

During the year two foreign acquisitions were made. Jordan Chemicals Ltd., an Australian company, makes synthetic resins and related chemicals used in plastics, textiles, printing inks, coatings and adhesives. A subsidiary acts as a distributor in Australia and New Zealand of various other chemicals, plastics and plastic processing equipment. Sales and earnings of Jordan are included since July 1 in the results for the current year. Excluding Jordan, Emery's sales were off 1% for the 12 months.

In March 1971, the acquisition of certain assets of Harchem Ltd. in Canada, by Emery Industries (Canada) Ltd., was completed. The acquired portion of Harchem Ltd. produces oleochemicals, refined glycerine, defoamers, and epoxy type plasticizers for vinyl resins. Headquarters for Emery Industries (Canada) Ltd., have been moved from London, Ontario, to Toronto and production is being maintained at both plants.

### **Cost Reduction and Organizational Changes Made**

During the year a number of major steps were taken to reduce costs and consolidate operations. For example, at year-end March 1971 the total number of employees was 10% lower than the number at the same time the

previous year. This percentage figure includes all divisions and subsidiaries of Emery except the two foreign businesses acquired during the year. In our chemical and drycleaning operations, organizational and marketing changes were made to operate with less cost and reduced personnel.

### **Cash Dividends Paid**

During the fiscal year, cash dividends of \$2,623,908 were paid on the common and preferred shares. The current annual dividend rate on the common shares is 30¢ per share. Emery has paid cash dividends on its common shares for 37 consecutive years.

### **New York Stock Exchange Listing**

In March 1971, Emery filed a preliminary application to list its common shares on the New York Stock Exchange. A final application is being prepared incorporating the March 31, 1971 financial statements. It is anticipated that the listing will be approved and become effective some time during the summer. Listing on the "Big Board" has been a goal of long standing with the company and we will be pleased to accomplish it.

### **Financial Strength Increased**

The financial condition of Emery was strengthened during the year by the completion of our long-term financing program. Long-term debt of \$14 million was sold and most of the funds from the refinancing program were used to liquidate bank debts. The bank loans were incurred primarily in connection with the company's domestic expansion program.

### **Plant Expansion Completed**

Capital expenditures for fiscal 1971 were approximately \$5.6 million. Capital expenditures were lower this year, as compared with last year, as the \$35 million plant expansion

program was completed during the first half of the fiscal year. The new units assure Emery of modern and efficient facilities and are now on-stream and operating satisfactorily. Capital expenditures for the coming year should be normal as the newly-completed plant is utilized.

#### **Union Contracts Negotiated**

During fiscal 1971, six labor contracts involving a large portion of our plant employees were negotiated. Two of the principal contracts are with the Machinists and Aerospace Workers, who represent our Cissell employees, and with the International Union of District 50, Allied and Technical Workers, who represent our Cincinnati plant employees. After a 45 day strike, the Cissell contract was settled on November 19th; the Cincinnati contract was successfully renegotiated on February 1st. Both new agreements are for three years.

#### **Ecological Concern Continues**

Pollution problems continue to receive a great deal of national attention and the chemical industry is generally classified among those industries with the largest cleanup chores. However, ecological cleanup chores do not seem to be a major problem for Emery Industries. Current water standards are being met by Emery. Considerable effort has been made to meet prior and future air standards and we do not anticipate that unusually large additional capital expenditures will be required.

#### **Outlook**

With better economic conditions, a strong organization and new plant capacity, we expect to capitalize on the opportunities available to us.



A. W. Schubert  
Chairman of the Board



D. R. Hinkley  
President

June 9, 1971

## Emery Products — Helping Industry Serve Modern Consumer Needs

Emery Industries is a manufacturer of high quality specialty chemicals used in a wide variety of both consumer and industrial goods.

Emery is well qualified to serve these markets because of its specialized marketing effort, high quality standards, modern, efficient and unique chemical processing facilities, and highly trained and experienced research personnel.

### Many Markets Served by Emery — Consumer and Industrial

Emery products are not dependent upon only one or two segments of industry, but are used in a wide variety of goods. While Emery serves both consumer and industrial needs, the consumer goods market is the major market for Emery products, either directly or eventually. With the continued growth in population, and the high rate of increase projected for discretionary income, the consumer goods market looks increasingly attractive throughout the 1970's and beyond.

Of Emery's production, 57% is used as ingredients in the manufacture of such consumer non-durables as clothing and accessories, cosmetics and toiletries, foods, paints, lubricants, soaps and detergents; and in such consumer durables as automobiles, carpets, furniture and appliances.

Another 11% of Emery's products enter the service industry, primarily through commercial aviation lubricants and drycleaning chemicals.

The manufacturing of industrial goods consumes 29% of Emery's products. In most cases, these involve Emery processing chemicals and equipment which do not become a part of finished consumer products. Included are such non-durables as adhesives and

sealants, agricultural chemicals, and machinery lubricants; and such durable goods as drycleaning and laundry equipment, industrial rubber goods, and metalworking lubricants.

Only 3% of Emery's output is sold for products ultimately used by the government; for example, ingredients in maintenance chemicals, paper coatings, and aircraft lubricants.

Some of the more important markets for Emery products, and their contributions to end-product performance, are outlined on these pages.

### Apparel Look Enhanced

Emery polyesters help give urethane coatings the "crush", "wrinkle", or "glossy" look popular in women's outerwear and accessories.



Hot-melt adhesives, made from polyamide resins derived from Emery dimer acids, have "immediate set" and high bond-strength characteristics which permit their use in shoe construction as replacements for metal fasteners and bulky stitching.

Emery plasticizers find wide use in vinyl outerwear where their superior low-temperature and permanence properties impart desired flexibility and softness to products such as jackets, boots, handbags and shoes.

Fabrics made from cotton, synthetic, and blended fibers may be treated with Emery textile chemicals to impart softness and desired feel or "hand".



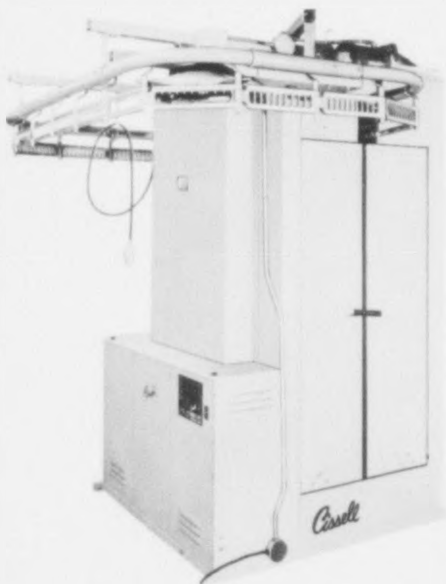
Synthetic fibers are being improved through the use of Emery polymer modifiers which increase flexibility and dye receptivity. Many types of woven and knit fabrics are made with Emery yarn and fiber lubricants to provide a more uniform and smooth fabric, enhancing finished fabric appearance.





Antistatic agents are used to eliminate static charges and facilitate higher processing speeds.

Emery not only assists fiber and fabric production, but also contributes to apparel maintenance. Through its Sanitone® drycleaning licensees, Emery offers products that provide improved soil removal and fabric retexturization to drycleaned garments. Other drycleaning chemicals are sold to both retail drycleaners and industrial



launderers. In addition to chemical products, Emery manufactures processing equipment for drycleaners, laundries, and apparel manufacturers.

#### **Cosmetics and Toiletries More Pleasing**

Isostearic acid, exclusive to Emery, and stearic acid and derivatives are widely used in cosmetics and toiletries



to insure maximum shelf life, provide lubricity and unique softening and soothing effects. Products containing these Emery materials include detergent bars, face powders, shave creams, facial creams, shampoos and lotions. Emery alcohol sulfates serve as foaming and cleaning agents in toothpaste.

Emery fatty acid esters are used extensively as emulsifiers in face and hand creams and lotions, and as softeners and spreading agents in bath oils. Emulsifiers are additives that permit two insoluble substances to mix. Relatively small proportions of emulsifiers enable oil to be suspended in water, or water in oil.

Ethoxylated fatty derivatives are used as suspending agents in hair creams and rinses. Emery's dimethyl brassylate serves as a raw material for synthetic musk used as a fragrance in perfumes.

Emery's line of lanolin and lanolin derivatives are unexcelled as conditioners and moisturizers in all types of cosmetic creams and hair preparations.

#### **Food Improved and Protected**

Emery food-grade fatty acid esters,

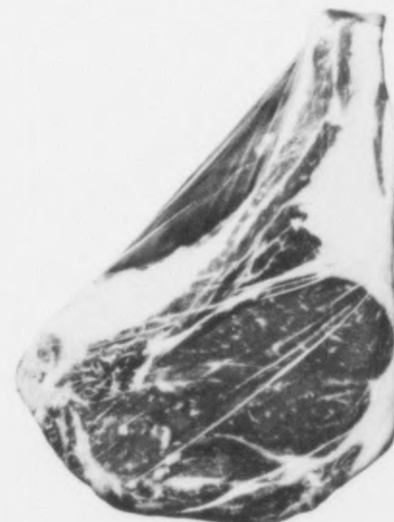
through their emulsifying properties, help make ice cream creamier, cakes lighter, and bread stay fresh longer.

Emery polyamide resins are the basis for flexographic inks used in printing bread wraps, frozen food packs and



other food packaging. These resins improve ink adherence to plastic films and metal foils, and increase ink flexibility and resistance to freeze-thaw conditions. These resins are based on dimer acids which have been a prime Emery development. Emery polyamides are also used in adhesives for sealing food packaging materials.

Amides and methyl esters, serve as foam stabilizers for liquid detergents, and are fully bio-degradable. Polyesters are used as components in food



packaging film, and fatty acid esters perform as lubricants in the rolling of metal foil packaging materials.

Transparent and shrink-type film used in food packaging contains Emery low-temperature plasticizers. These products are unmatched for the low-temperature flexibility and clarity which they impart to such films.

#### **Transportation More Enjoyable and Reliable**

Emery's low-temperature plasticizers provide flexibility and softness to vinyl automotive upholstery, while



polymeric-type plasticizers offer permanence of flexibility and good wear properties.

Because of their excellent resistance to rub-off, Emery polymeric plasticizers are used extensively in heavy duty applications, in upholstery and trim for trucks, buses and other forms of commercial transportation. The flexibility and permanence properties imparted to vinyls by these products are also highly important to such items as convertible tops and crash pads.

A variety of Emery fatty acids are key ingredients in synthetic and natural rubber for tires and other rubber products of all types; and in many types of lubricating greases.

Lubricants for jet engines consume large quantities of Emery's exclusive ozone acids, and esters. These products exhibit excellent lubricating properties at high temperatures and fluidity at extremely low temperatures.

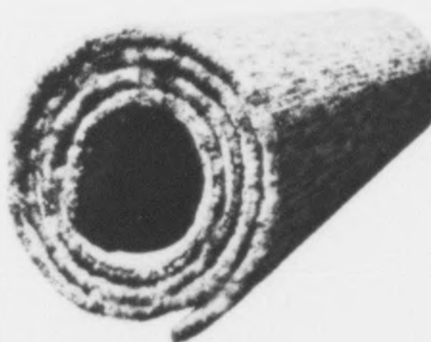


They also demonstrate outstanding performance characteristics in arctic-based vehicles where cold weather engine starting is a severe problem.

Emery stearic acids are used as binders and lubricants in buffing compounds for polishing chrome and similar automotive parts. Emery acids, with outstanding non-yellowing properties for better color retention and color-matching, are important to automobile finishes and refinishing products.

#### **Home Furnishings More Livable**

Emery polymer modifiers are used to



increase dye-receptivity of carpet yarns. Fiber lubricants enable faster production of carpet and upholstery yarns and fabrics. Oleic acid serves as an emulsifier for water-based latex backing of tufted carpets.

Emery esters and alcohol sulfates provide the detergency and foam characteristics of rug shampoos. Specialty organic chemicals are used as intermediates in the preparation of dyes for yarns and fabrics. The anti-static properties of Emery products enable high-speed processing of static-generating synthetic fibers and yarns.

Maintenance of draperies is also a part of the Emery story with the Adjust-a-drape® process, a patented drapery finishing machine sold to drapery cleaners which guarantees proper drapery length and even hemlines.

Because of their permanent flexibility properties, Emery plasticizers are important components in vinyl furniture upholstery and wall coverings.



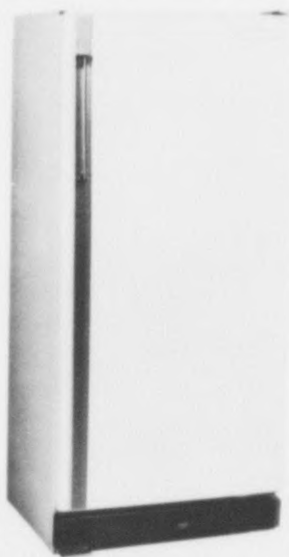
Telephone cords require yet another special plasticizer system designed to provide extreme flexibility to the cord and to prevent it from marring furniture coatings. Stearic acid serves as a lubricant and mold-release agent for television cabinets and other molded plastic items.

Other special Emery plasticizers assure the required flexibility of refrigerator door gaskets, without imparting foreign odors to foods, or causing crazing of polystyrene plastic interior moldings. Polishes and waxes contain Emery emulsifiers that enable water and oil based products to successfully mix.

Stearic and oleic acids serve other useful purposes in a variety of household items; as a binding substance in ball point pen inks, carbon paper and typewriter ribbon. Small gears for household appliances are made from compressed metal powders containing stearic acid as a binder. Stearic acid also provides the necessary rigidity and opacity to candles and crayons.

#### Coatings More Protective

Appliance finishes, based on Emery



pelargonic acid, are not only economical but help maintain whiteness longer.

Many types of alkyd house and industrial paints use one or more Emery fatty acids as a basic modifier



to the resin, air-drying paints as well as baking enamels. Because of the wide range of acids available, extreme flexibility in formulation is possible. Emery tall oils and derivatives are also economical modifiers for alkyd resins used in interior flat wall finishes and industrial coatings.

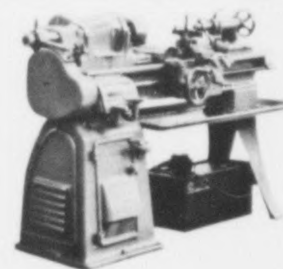
Epoxy coatings are a prime market for Emery polyamide resins. The reaction of epoxy-resin and Emery polyamides results in extremely tough, almost indestructible finishes.

Stearic acid is used as a binder in clay-type coatings for high-quality printing papers, and as a processing aid in the manufacture of the paper itself.

#### Industrial Market Important

Emery continues to have an important interest in the industrial goods market. Emery dimer acids, which boast a wide range of uses in modern industrial applications, are important ingredients in corrosion inhibitors for the petroleum industry. Dimer acids are also being used in coil coatings on strip metal.

Other important applications include a line of lubricants for the cold-rolling of steel; spin finishes for the synthetic fiber industry; a variety of industrial finishes for all types of machinery and



equipment; and fatty acids for buffing compounds used in metal finishing.

#### Specialized Emphasis to Continue

Emery's main objective will continue to be that of producing specialty chemicals for important growth markets, with the consumer or consumer-related growth markets the largest segment.

#### Distribution of Dollar Sales, by End Use Markets

Customer Use	Percent of Total Sales
Plastics: vinyl products, epoxy resins, and other plastics	15.7%
Drycleaning and laundry equipment	9.6
Textiles, natural and synthetic fibers and fabrics	8.6
Synthetic lubricants, petroleum oils and greases, other petroleum products	8.5
Protective coatings: paints and varnishes, waxes and polishes	8.5
Detergents and emulsifiers	7.1
Cosmetics and toiletries, drugs and pharmaceuticals	6.6
Chemical intermediates (metallic soaps, organic esters, etc.)	6.4
Synthetic rubber and fabricated rubber products	5.9
Drycleaning chemicals	5.0
Soaps and cleaning compounds	3.5
Metalworking compounds	2.7
Other uses, including foods, agricultural uses, insecticides, printing and writing inks, paper products, and adhesives	11.9
<b>TOTAL</b>	<b>100.0%</b>



## Management and Directors



Arthur W. Schubert  
*Chairman of the Board*



D. R. Hinkley  
*President*



John M. Archiable  
*Vice President,  
Manufacturing*



David R. Eagleson  
*Vice President,  
Fatty Acid Division*



Charles G. Goebel  
*Vice President,  
Research and Development*



Albert H. Jordan  
*Vice President,  
Drycleaning Products Division*



Walter T. Meinert  
*Vice President,  
International Division*



L. H. Lanman  
*Secretary*



N. D. Bachman  
*Treasurer*



John T. Gilligan  
*Controller*



Jack C. Close  
*General Manager,  
Organic Chemicals Division*

### Directors:

John M. Archiable  
*Vice President*

K. K. Boyd  
*Retired Vice President*

James R. Bridgeland, Jr.  
*Partner, Taft, Stettinius & Hollister*

George H. Brown, Jr.  
*Retired Chairman of the Board,  
Girard Bank*

John J. Emery  
*President, Thomas Emery's Sons, Inc.*

D. R. Hinkley  
*President*

John B. Hollister  
*Retired Partner,  
Taft, Stettinius & Hollister*

Paul R. Ilyinsky  
*Director and Secretary,  
Emery Realty, Inc.*

Daniel W. LeBlond  
*President, LeBlond Incorporated*

William S. Rowe  
*President, Fifth Third Bank*

Arthur W. Schubert  
*Chairman of the Board*

## Financial Review

### Sales

Net sales for the fiscal year ended March 31, 1971 were \$87,651,000, an increase of 4% over the \$84,421,000 the prior year. If Emery's share of the sales of Unilever-Emery N.V. and Monsanto-Emery joint ventures were included, the company's total sales exceeded \$105 million.

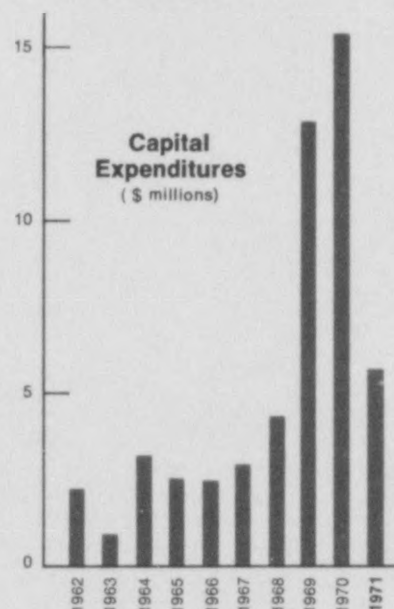
### Earnings

Net income for the 1971 fiscal year was \$4,084,000, 33% below \$6,064,000 the previous year, excluding fiscal 1970's non-recurring gain. Earnings per common share were 49¢ this year compared with 74¢ last year, excluding the non-recurring gain last year, a decline of 34%. A number of factors adversely affected 1971 income. Along with the lackluster economic conditions, several items specific to Emery Industries contributed to the decrease, including a 3¢ per share earnings reduction caused by an inventory adjustment at Cissell. These causes are mentioned in the Letter to Shareholders on page 2.

Earnings per common share figures are based on 7,840,087 average shares this year and 7,820,952 average shares last year. Fully diluted earnings per share, assuming conversion of all Series A preferred stock and the exercise of stock options, was not materially different than reported net income per share. Expressed another way, potential dilution which is not reflected in the reported earnings per share of 49¢ is nominal, less than 1%.

### Capital Expenditures

Capital expenditures during the year totaled \$5,607,000, compared with \$15,395,000 last year, a decrease of 64%. The major three year plant expansion program of \$35 million was completed in the first half of the fiscal year. The chart below dramatically illustrates the magnitude of this plant program.



### Common Stock Dividends

Quarterly cash dividends of 7½¢ per share were paid during the year:

June 1, 1970	7½¢
September 1, 1970	7½¢
December 1, 1970	7½¢
March 1, 1971	7½¢

Emery has paid cash dividends for 37 consecutive years.

### Acquisitions

Two acquisitions were made for cash. The acquisition of Jordan Chemicals Ltd., an Australian company, was made in June 1970. Certain assets of Harchem Ltd., a Canadian company, were acquired in March 1971. Each transaction was accounted for as a

purchase. On an annual basis the combined sales of the two companies are approximately \$9 million.

### Debenture Issue

In December 1970, \$14 million of 25 year sinking fund debentures were sold publicly. Of the proceeds, \$11 million was used to repay bank loans and the balance added to the general funds of the company. The debentures have an interest rate of 9¼% and are nonrefundable prior to November 1980. Beginning November 1976, a mandatory sinking fund of \$700,000 annually is designed to retire 95% of the issue prior to maturity. The debentures reached the market through underwriters led by Blyth & Co. They were rated A by Standard and Poor's and Baa by Moody's.

### Effective Tax Rate

The effective tax rate for fiscal 1971 was lower than the previous year primarily as a result of amortization of the investment tax credit, and the reduction of the surtax from 8¾% in fiscal 1970 to 1¼% in fiscal 1971.

### Financial Resources

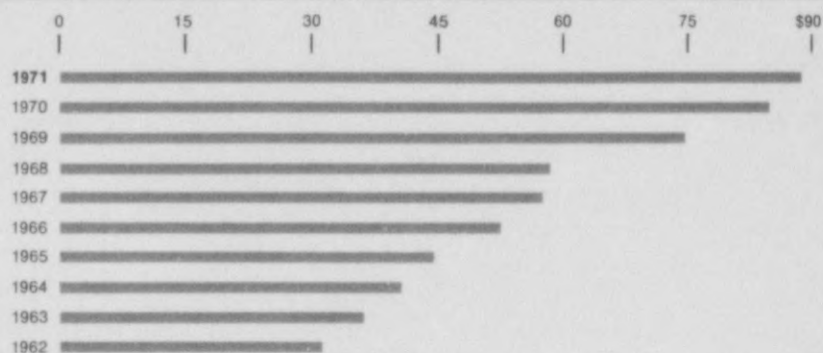
The consolidated balance sheet of Emery remains strong and continues to reflect sound corporate liquidity. Despite tight money, Emery ended the year with one of the highest levels of cash and equivalent in its history and net working capital was \$29.4 million, the current ratio 3.5 to 1. Many of the various items of the fiscal 1971 balance sheet have significantly increased since last year because the Jordan and Harchem acquisitions were accounted for as purchases. For instance, of the \$4.9 million increase in inventory from last year, \$2.4 million was attributable to the addition of Jordan and Harchem inventories. At year end, long-term debt totaled \$30.4 million, or 34% of total capitalization at book value.



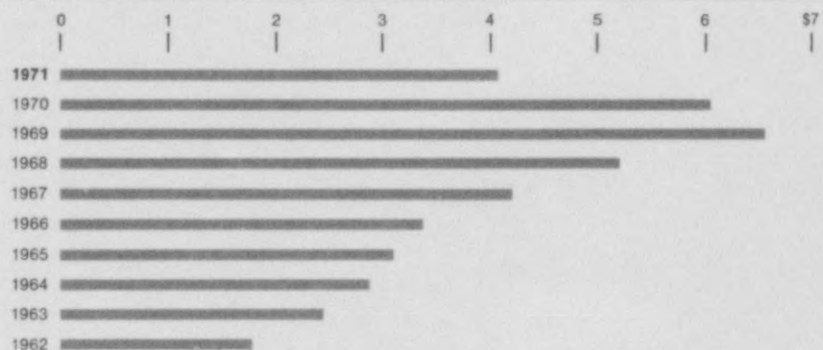
## 10 Year Financial Charts

### Net Sales (in millions)

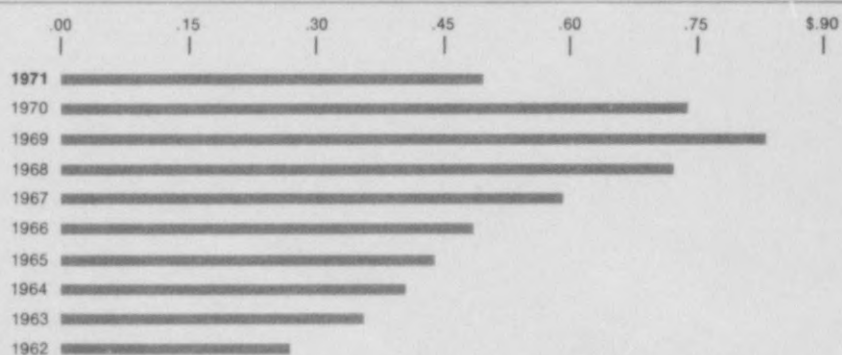
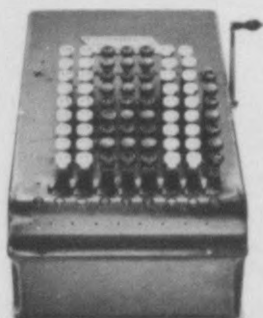
Fiscal Years Ended March 31st.



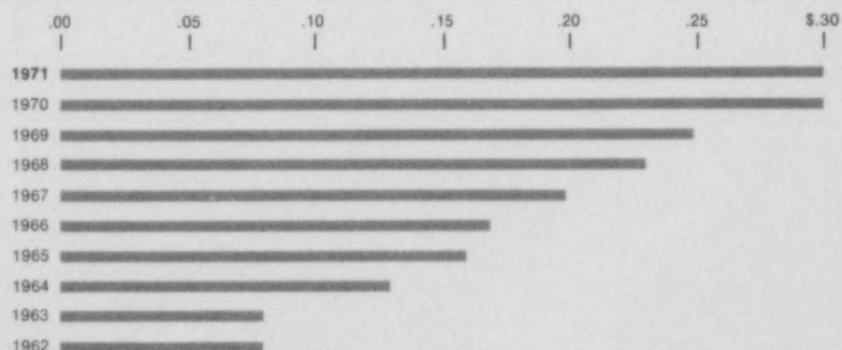
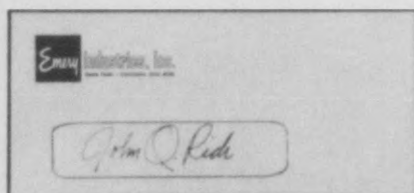
### Net Income (in millions)



### Earnings Per Common Share



### Dividends Paid Per Common Share





## Consolidated Statement of Income

for the years ended March 31, 1971 and 1970

	1971	1970
NET SALES	\$87,651,003	\$84,420,939
Cost of sales	70,316,938	63,679,466
Gross profit	17,334,065	20,741,473
Operating and general expenses	11,470,668	11,253,032
Income from operations	5,863,397	9,488,441
Other income, net	760,857	671,619
Interest expense, net	(1,768,756)	(915,319)
	4,855,498	9,244,741
Provision for United States, foreign, and other income taxes:		
Currently payable	897,596	3,394,422
Deferred	1,043,365	1,180,351
	1,940,961	4,574,773
	2,914,537	4,669,968
Equity in net income of fifty percent owned enterprises (Note 1)	1,169,744	1,393,676
INCOME BEFORE EXTRAORDINARY GAIN	4,084,281	6,063,644
Extraordinary gain (Note 8)		886,000
NET INCOME	\$ 4,084,281	\$ 6,949,644
PER COMMON SHARE (Notes 2 and 13):		
Income before extraordinary gain	\$ .49	\$ .74
Extraordinary gain		.11
Net income	\$ .49	\$ .85

## Consolidated Statement of Retained Earnings

for the years ended March 31, 1971 and 1970

	1971	1970
Beginning of year	\$34,394,451	\$29,451,994
Net income	4,084,281	6,949,644
	38,478,732	36,401,638
Dividends:		
Common (Note 2):		
\$.225 per share declared and paid in fiscal 1970 (Additional \$.075 per share declared in fiscal 1969 and paid in fiscal 1970)		1,688,233
\$.30 per share declared and paid in fiscal 1971	2,351,940	
Preferred:		
\$3.00 per share declared and paid in fiscal 1970 (Additional \$1.00 per share declared in fiscal 1969 and paid in fiscal 1970)		203,976
\$4.00 per share declared and paid in fiscal 1971	271,968	
Pooled companies prior to acquisition		114,978
	2,623,908	2,007,187
End of year (Note 12)	\$35,854,824	\$34,394,451

The accompanying notes are an integral part of the financial statements.

## Consolidated Statement of Income

for the years ended March 31, 1971 and 1970

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## Consolidated Statement of Retained Earnings

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The accompanying notes are an integral part of the financial statements.



## Consolidated Balance Sheet

March 31, 1971 and 1970

	1971	1970
<b>Assets</b>		
Current assets		
Cash	\$ 1,946,284	\$ 2,235,435
U. S. Government and other interest bearing securities, at cost (approximates market)	5,317,462	2,201,539
Accounts receivable	13,177,485	11,842,980
Inventories (Note 4)	19,411,879	14,490,734
Prepaid expenses	1,549,351	1,225,381
Total current assets	41,402,461	31,996,069
Property, plant and equipment (Note 5):		
Land	2,317,186	1,979,985
Buildings	16,577,435	12,556,131
Equipment	59,150,549	50,773,698
Construction in progress	3,336,883	8,728,229
	81,382,053	74,038,043
Less, allowance for depreciation and amortization	28,497,434	25,030,764
	52,884,619	49,007,279
Investment in fifty percent owned enterprises (Note 1)	8,937,238	9,780,612
Other assets	810,294	776,368
Excess of purchase price over underlying net assets of businesses acquired (Note 1)	2,479,479	1,865,297
	<u>\$106,514,091</u>	<u>\$93,425,625</u>
<b>Liabilities</b>		
Current liabilities		
Accounts payable	\$ 5,655,275	\$ 4,815,510
Accrued expenses	3,249,868	2,995,534
Accrued United States and foreign income taxes	1,026,435	772,175
Current portion of long-term debt (Note 7)	2,040,680	1,000,000
Total current liabilities	11,972,258	9,583,219
Long-term debt (Note 7)	28,390,271	20,500,000
Deferred income taxes (Note 6)	4,960,753	3,955,850
Deferred investment tax credit (Note 6)	1,518,177	1,412,569
<b>Shareholders' Equity</b>		
Preferred shares, cumulative, without par value; authorized 650,000 shares:		
Convertible Series A, liquidating preference \$6,779,200 at March 31, 1971	5,737,792	5,754,720
Common shares, without par value	18,400,513	18,154,940
Retained earnings	35,854,824	34,394,451
	59,993,129	58,304,111
Less treasury shares, at cost	320,497	330,124
Total shareholders' equity (Notes 2, 3, 11, and 12)	59,672,632	57,973,987
	<u>\$106,514,091</u>	<u>\$93,425,625</u>

The accompanying notes are an integral part of the financial statements.



## Consolidated Statement of Changes in Financial Position

for the years ended March 31, 1971 and 1970

	1971	1970
<b>Sources:</b>		
From current operations:		
Income before extraordinary gain	\$ 4,084,281	\$ 6,063,644
Add (deduct) items not involving funds:		
Depreciation and amortization	3,616,673	2,873,541
Deferred income taxes and investment tax credit	1,043,365	1,180,351
Equity in net income of fifty percent owned enterprises:		
Before distributions	(1,169,744)	(1,393,676)
Distributions	516,566	79,676
	<u>(653,178)</u>	<u>(1,314,000)</u>
Total sources of funds from current operations	\$ 8,091,141	\$ 8,803,536
Sale of treasury stock to employees		294,022
Stock options exercised	238,575	76,753
Additions to long-term debt	22,190,271	8,398,300
Fifty percent owned enterprises — redemption of preferred shares (Note 1) and return of advances	1,496,552	941,152
All other, net	51,300	135,463
Total sources	<u>\$32,067,839</u>	<u>\$18,649,226</u>

<b>Applications:</b>		
Capital expenditures	\$ 5,607,324	\$15,395,293
Purchase of subsidiaries, less \$1,979,453 working capital acquired	1,905,072	
Reductions of long-term debt	14,300,000	
Dividends declared and paid	2,623,908	2,007,187
Excess of purchase price over underlying net assets of businesses acquired	614,182	
Total applications	<u>\$25,050,486</u>	<u>\$17,402,480</u>
Net change in working capital	<u>\$ 7,017,353</u>	<u>\$ 1,246,746</u>

<b>Analysis of Working Capital Changes:</b>		
Current asset changes:		
Cash and marketable securities	\$ 2,826,772	\$(3,747,636)
Inventories	4,921,145	929,843
Other current assets	1,658,475	3,395,831
Net increase in current assets	<u>\$ 9,406,392</u>	<u>\$ 578,038</u>
Current liability changes:		
Accounts payable, accrued expenses and taxes	\$ 1,348,359	\$(1,046,658)
Current portion of long-term debt	1,040,680	1,000,000
Dividends payable		(622,050)
Net increase (decrease) in current liabilities	<u>\$ 2,389,039</u>	<u>\$ (668,708)</u>
Net change in working capital	<u>\$ 7,017,353</u>	<u>\$ 1,246,746</u>

The accompanying notes are an integral part of the financial statements.

## 10 Year Review

Dollars in Thousands (except per share data)

Fiscal Years Ended March 31st.	1971	1970	1969
<b>Annual Results</b>			
Net sales	\$87,651	\$84,421	\$74,895
Net income	\$ 4,084	\$ 6,064 *	\$ 6,609
Per common share:			
Net income	\$ .49	\$ .74 *	\$ .83
Cash dividends paid	\$ .30	\$ .30	\$ .25
Capital expenditures	\$ 5,607	\$15,395	\$12,917
Depreciation and amortization	\$ 3,617	\$ 2,874	\$ 2,330
Average common shares outstanding (000s)	7,840	7,821	7,750
Return on shareholders' equity at beginning of year	7.0%	11.5% *	15.9%
<b>Financial Position at Year-End</b>			
Net working capital	\$29,430	\$22,413	\$21,166
Current ratio	3.5	3.3	3.1
Net plant	\$52,885	\$49,007	\$36,312
Long-term debt	\$30,431	\$21,500	\$12,102
Shareholders' equity	\$59,673	\$57,974	\$52,641

Fiscal 1971 acquisitions were treated as purchases; fiscal 1970 acquisitions were treated as poolings of interests and fiscal 1969 was restated. The effect on prior years was not significant.

Per share data is adjusted for 3/1 and 4/1 stock splits in July, 1969 and January, 1964 and is based on average common shares outstanding each year.

\*Excludes extraordinary gain of \$886,000 or 11¢ per share.



1968	1967	1966	1965	1964	1963	1962
\$57,288	\$56,507	\$52,023	\$45,293	\$40,136	\$35,204	\$30,958
\$ 5,208	\$ 4,228	\$ 3,387	\$ 3,107	\$ 2,890	\$ 2,487	\$ 1,820
\$ .72	\$ .59	\$ .48	\$ .44	\$ .41	\$ .36	\$ .27
\$ .23	\$ .20	\$ .17	\$ .16	\$ .13	\$ .08	\$ .08
\$ 4,324	\$ 3,018	\$ 2,442	\$ 2,513	\$ 3,171	\$ 894	\$ 2,201
\$ 1,853	\$ 1,735	\$ 1,563	\$ 1,498	\$ 1,443	\$ 1,380	\$ 1,250
7,329	7,325	7,354	7,364	7,358	7,324	7,324
15.7%	14.8%	12.9%	12.9%	13.4%	12.7%	10.0%
\$17,985	\$17,772	\$ 9,528	\$ 9,797	\$ 9,249	\$ 8,421	\$ 8,693
4.0	4.0	2.6	2.6	2.8	2.8	3.8
\$23,459	\$20,969	\$19,676	\$18,823	\$17,815	\$16,112	\$16,657
\$ 6,000	\$ 6,100	\$ 520	\$ 220			\$ 3,500
\$40,549	\$32,863	\$28,600	\$26,211	\$24,172	\$21,597	\$19,597



1968	1967	1966	1965	1964	1963	1962
\$57,288	\$56,507	\$52,023	\$45,293	\$40,136	\$35,204	\$30,958
\$ 5,208	\$ 4,228	\$ 3,387	\$ 3,107	\$ 2,890	\$ 2,487	\$ 1,820
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\$ .23	\$ .20	\$ .17	\$ .16	\$ .13	\$ .08	\$ .08
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\$ 1,853	\$ 1,735	\$ 1,563	\$ 1,498	\$ 1,443	\$ 1,380	\$ 1,250
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\$ 6,000	\$ 6,100	\$ 520	\$ 220			\$ 3,500
\$40,549	\$32,863	\$28,600	\$26,211	\$24,172	\$21,597	\$19,597

## Notes to Financial Statements

**1. Principles of Consolidation and Acquisition of Businesses:** The consolidated financial statements include the accounts of the Company and subsidiaries (domestic and foreign). Appropriate rates of exchange have been used to convert foreign currency statements to U.S. dollars. The assets, sales, and earnings of foreign subsidiaries are not significant.

The Company acquired during fiscal 1970 Malmstrom Chemical Corp. and Trylon Chemicals, Inc. in exchange for an aggregate of 394,802 common shares. For accounting purposes these transactions have been treated as poolings of interests.

In June, 1970 the Company acquired a majority stock interest in Jordan Chemicals Limited (Australia) and subsequently acquired the remaining outstanding stock for a total purchase price of \$2,319,000. The cost in excess of the amount allocated to net tangible assets was charged to excess of purchase price over underlying net assets of businesses acquired. As of March 31, 1971, a foreign subsidiary (Canada) of the Company acquired the net assets of a division of Harchem Limited (Canada) for \$1,565,525, all of which was allocated to net tangible assets. For accounting purposes these transactions have been treated as purchases and their operations have been included in the financial statements from date of acquisition.

At March 31, 1971, the excess of purchase price over underlying net assets of businesses acquired is attributable to intangibles, which in the opinion of management has continuing value and is not being amortized.

The Company carries its investment in fifty percent owned enterprises at cost plus equity in accumulated earnings since acquisition. The Company's equity in the net assets, as shown by the books of these enterprises at March 31, 1971 was \$9,253,129 for Unilever-Emery N.V. and consolidated subsidiaries (foreign) and \$530,809 for Monsanto-Emery. The equity in net income of fifty percent owned enterprises for the years ended March 31, 1971 and 1970 includes the Company's share of the net income of Unilever-Emery N.V. in the amounts of \$1,011,000 and \$2,200,000 (including extraordinary gain of \$886,000), respectively.

During fiscal 1971, Unilever-Emery N.V. paid dividends of \$897,237 and redeemed 11,284 shares of its preferred capital stock for \$3,117,127. The Company's share was \$448,619 and \$1,558,563, respectively.

No provision has been made at March 31, 1971 for United States and foreign taxes that may result from the distribution to the Company of earnings of subsidiaries and Unilever-Emery N.V.

**2. Common Shares:** Changes during the year ended March 31, 1971 were as follows:

	Issued		Treasury	
	Shares	Amount	Shares	Amount
Beginning of year	7,864,667	\$18,154,940	38,417	\$330,124
Conversion of preferred shares	960	16,926		
Exercise of options	25,400	228,645	(1,155)	(9,930)
Acquired			17	303
End of year	7,891,027	\$18,400,513	37,279	\$320,497

At March 31, 1971, there were 502,457 unissued shares and 10,725 treasury shares reserved for conversion of preferred stock and employees' stock options.

**3. Preferred Shares:** The series, terms and provisions of this stock may be determined by the Board of Directors. At March 31, 1971, there were outstanding 67,792 shares designated as Series A. During fiscal 1971, 200 preferred shares were converted into 960 common shares. Each share of Series A (\$4 per share dividend) is convertible into 4.8 common shares, is callable at \$110 per share during fiscal 1974 scaling down

to \$100 per share after October 31, 1978, and has a liquidating value of \$100 per share.

**4. Inventories:** Inventories are valued at the lower of cost or market. Costs are determined by the average cost method for eighty-four percent and eighty-seven percent of the inventories at March 31, 1971 and 1970, respectively, and by the last-in, first-out method for the remainder of the inventories.

**5. Property, Plant and Equipment:** Property, plant and equipment is stated at cost. Depreciation and amortization, computed principally on a straight-line basis, are included in costs and expenses in the amounts of \$3,616,673 and \$2,873,541 for fiscal 1971 and 1970, respectively.

**6. Deferred Income Taxes and Investment Tax Credit:** Deferred income taxes arise principally from differences between the use of straight-line depreciation for financial reporting purposes and accelerated depreciation for tax purposes.

The investment tax credit is being amortized to income over the estimated productive lives of the related assets.

### 7. Long-Term Debt:

	March 31, 1971
9 1/4 % Sinking Fund Debentures due in 1995 with annual sinking fund requirements of \$700,000 commencing in fiscal 1977	\$14,000,000
5 1/2 % Promissory Notes due in 1991 with annual prepayments of \$300,000 commencing in fiscal 1973	6,000,000
6 1/4 % Promissory Notes maturing in 1975, due \$2,000,000 annually through fiscal 1973, \$2,500,000 annually thereafter	9,000,000
Promissory Notes (a)	1,200,000
Notes (assumed in connection with acquisition) with interest ranging from 7 1/4 % to 7 3/4 %	230,951
Less current portion	2,040,680
	\$28,390,271

(a) The Promissory Notes, with interest at the prevailing Euro-dollar rate, were issued under a loan agreement providing for revolving credit of \$3,000,000 evidenced by renewable notes, none of which may mature subsequent to March 31, 1974.

The Company has a loan agreement with banks providing for revolving credit of \$6,000,000 (none of which is outstanding at March 31, 1971) evidenced by renewable ninety-day notes until June 30, 1972 at which time the Company can elect to replace such revolving credit with term loans. The term loans would be repayable over a five year period in installments commencing December 31, 1972.

**8. Extraordinary Gain:** In March 1970, the Company's fifty percent owned enterprise, Unilever-Emery N.V., sold certain commercial and technical know-how of a product line. The gain is net of applicable income taxes.

**9. Commitments and Contingencies:** The Company is contingently liable in an amount approximating \$657,000 as guarantor of certain long-term indebtedness of Unilever-Emery N.V.

**10. Pensions:** The Company and its subsidiaries have pension plans covering substantially all of their employees. The total pension expense for the fiscal years 1971 and 1970 was \$756,542 and \$599,205, respectively, which includes amortization of past service cost over periods of 10 and 30 years. The Company's policy is to fund pension cost accrued. The estimated unfunded past service liability amounts to \$1,295,858 at March 31, 1971. There are no unfunded vested benefits at March 31, 1971.

**11. Stock Option and Stock Ownership Plans:** The Company has a qualified stock option plan for certain employees. The option price shall be the market price on the date of grant. The term of each option shall not exceed five years and no option shall be exercisable within one year from date of grant. Options are generally exercisable in installments. The plan will terminate in 1977.

Options to purchase 220,155 common shares were outstanding at March 31, 1970. Option transactions during the year ended March 31, 1971 were as follows: exercised, 25,400 shares (\$9.00 per share); cancelled, 17,700 shares (\$9.00 and \$20.50 per share). Options to purchase 177,055 shares (\$9.00 to \$22.21 per share) were outstanding at March 31, 1971. Options for 81,655 shares (\$9.00 to \$22.21 per share) were exercisable at March 31, 1971. Shares available for option at the close of the year were 179,250.

The Company has substituted its common treasury shares in lieu of common shares of an acquired company reserved for options outstanding at the date of acquisition. Options exercised during the year ended March 31, 1971 amounted to 1,155 shares (\$8.64). At March 31, 1971, options to purchase 10,725 shares (\$8.64 per share) were outstanding, of which, options for 10,065 shares were exercisable.

**12. Restrictions on Retained Earnings:** Retained earnings at March 31, 1971 is comprised of the following:

Emery Industries and Consolidated Subsidiaries and Monsanto-Emery, a joint venture	\$28,577,378
Unilever-Emery N.V. (foreign)	7,277,446 (a)
	\$35,854,824 (b)

(a) Distributable to the Company with approval of the other fifty percent owner.

(b) Under the \$6,000,000 loan agreement with banks (see Note 7), \$6,460,373 at March 31, 1971 is available for the payment of cash dividends or for the reacquiring of the Company's capital shares. Similar but less restrictive provisions are in force with respect to the Company's other loan agreements.

**13. Per Share Data:** Data per common share is based on the average number outstanding during each year after recognition of the preferred dividend requirements. Fully diluted net income per share, assuming the conversion of all Series A preferred stock and the exercise of stock options, is not materially different than the reported net income per share.

### Report of Certified Public Accountants

To the Shareholders and Board of Directors  
Emery Industries, Inc.  
We have examined the consolidated balance sheet of Emery Industries, Inc. and subsidiary companies as of March 31, 1971, and the related consolidated statements of income and retained earnings and the consolidated statement of changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. We previously examined and reported upon the consolidated financial statements for the year ended March 31, 1970.

In our opinion, the above referred to financial statements present fairly the consolidated financial position of Emery Industries, Inc. and subsidiary companies at March 31, 1971 and 1970, and the consolidated results of their operations and changes in financial position for the fiscal years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.  
LYBRAND, ROSS BROS. & MONTGOMERY  
Cincinnati, Ohio  
May 21, 1971



**Products**

Stearic acids	Esters
Oleic acids	Textile chemicals
Dimer acids	Lanolin and derivatives
Plasticizers	Emulsifiers
Glycerine	Surface active agents
Hydrogenated products	Garment dryers and conveyors
Azelaic and pelargonic acids	Drapery finishing machines
Polyamide resins	Electronic moisture control systems
Garment finishing equipment	Condensates
Drycleaning chemicals	Dye intermediates
Isostearic acids	Candles
Tall oil products	Stearates
Synthetic resins	

**Consuming Industries**

Plastics and resins	Metal casting
Jet engine lubricants	Candles
Soaps and emulsifiers	Coin-op laundries
Paints and other finishes	Printing inks
Cosmetics and toiletries	Adhesives
Retail drycleaners	Drugs and pharmaceuticals
Laundries — retail and industrial	Detergents
Textile products	Foods
Man-made fibers	Agricultural chemicals
Protective coatings	Oil well servicing
Rubber	Apparel manufacturers
Waxes and polishes	Metal working compounds
Lubricating oil and greases	Paper
	Insecticides

**Executive Offices:**

Carew Tower, Cincinnati, Ohio 45202

**Plants:**

Cincinnati, Ohio  
Linden, New Jersey  
Lock Haven, Pennsylvania  
Los Angeles, California  
Louisville, Kentucky  
Mauldin, South Carolina  
Santa Fe Springs, California  
Stamford, Connecticut  
Nitro, West Virginia  
(Monsanto-Emery)  
London, Ontario, Canada  
Toronto, Ontario, Canada  
Gouda, The Netherlands  
(Unilever-Emery N.V.)  
Sydney, Australia

**Transfer Agents:**

The First National Bank of Cincinnati,  
Cincinnati, Ohio 45201  
Chemical Bank, New York,  
New York 10015

**Registrars:**

Fifth Third Bank, Cincinnati, Ohio 45201  
Chemical Bank, New York,  
New York 10015

**Common Stock Listing:**

American Stock Exchange  
Symbol — EI

**Annual Meeting**

All Emery shareholders are cordially invited to attend our 1971 Annual Meeting. It will be held at 11:30 A.M. on June 25 in Parlor I of the Netherland Hilton Hotel, Cincinnati, Ohio.





Printed in U.S.A.

2/67



STATE OF SOUTH CAROLINA  
DEPARTMENT OF INSURANCE

2711 MIDDLEBURG DRIVE  
COLUMBIA, SOUTH CAROLINA 29204

MAILING ADDRESS:  
P. O. BOX 4067, COLUMBIA, S. C. 29240

INSURANCE COMMISSION

EDWARD KRONBERG  
CLAUDE E. MCCAIN  
JAMES C. SELF  
EDWARD W. VEREEN  
E. FORT WOLFE

September 24, 1973

*Patman*

Mr. Pat C. Smith  
Secretary  
Budget and Control Board  
State of South Carolina  
Room 205  
Wade Hampton Building  
Post Office Box 1133  
Columbia, South Carolina 29211

RE: Robert H. Hodges  
Attorney, Director Premium Service Division

Dear Mr. Smith:

Mr. Robert H. Hodges, Director of our Premium Service Division reached the age of 70 on August 25, 1973.

In accordance with the provisions of Title 61, Section 103, subparagraph 2, of the Code of Laws of South Carolina, we respectfully request approval by the Budget and Control Board for Mr. Hodges to continue in service for a period of one year. We are enclosing herewith the employee's request for continued service which we have given the Department's approval.

Thanking you for your consideration for this request, I am,

Sincerely yours,

*Glen E. Craig*  
GLEN E. CRAIG  
Acting Chief Insurance Commissioner

GEC:mp

Enclosure



STATE OF SOUTH CAROLINA  
DEPARTMENT OF INSURANCE

2711 MIDDLEBURG DRIVE  
COLUMBIA, SOUTH CAROLINA 29204

MAILING ADDRESS:  
P. O. BOX 4067, COLUMBIA, S. C. 29240

INSURANCE COMMISSION

EDWARD KRONBERG  
CLAUDE E. MCCAIN  
JAMES C. SELF  
EDWARD W. VEREEN  
E. FORT WOLFE

September 24, 1973

Mr. Glen E. Craig  
Acting Chief Insurance  
Commissioner  
South Carolina Insurance  
Department  
Columbia, South Carolina

Dear Mr. Craig:

I reached the age of seventy on August 25, 1973, and desire to continue my employment for another year.

Therefore, pursuant to Title 61, Section 103 of the South Carolina Code, as amended, I respectfully request that I be continued in service for a period of one year.

Sincerely,

ROBERT H. HODGES

RHH:pbw





EXHIBIT IX  
OCT. 4, 1973

Dwight A. Holder  
Chairman

P. O. Box 247  
Pickens, South Carolina 29671

September 5, 1973

The Honorable P. C. Smith  
Secretary to the Board  
State Budget and Control Board  
Post Office Box 11333  
Columbia, South Carolina 29211

Dear Pat:

Please accept in behalf of the State Budget and Control Board this official request of the Parks, Recreation and Tourism Commission that the approximately \$975,000.00 being held in escrow for the state's project on Roper Mountain in Greenville County be released to our department, to be used for sorely needed capital improvements in state parks throughout South Carolina.

This Commission at its meeting of August 31, 1973 concluded that it is no longer feasible to pursue completion of the Fuller-designed geodesic structure on the site, due to sharp increases in construction costs and a refusal by the Department of Housing and Urban Development to approve the only avenue left open to us in our efforts to bring the project to a successful conclusion.

Therefore, the escrow funds will not be needed for the envisioned purpose, however, they could be put to immediate and good use by being used to provide to our citizens throughout the State new and improved recreational facilities in the state parks.

We pray that the Board will give full and positive consideration to this request.

Very truly yours,

Dwight A. Holder  
Chairman

DAH:JL:dm

*Oct. Ad. Mtg*

September 7, 1973

Mr. Dwight A. Holder, Chairman  
Parks, Recreation and Tourism  
Post Office Box 247  
Pickens, South Carolina 29671

Dear Mr. Holder:

In your letter of September 5 you have requested the Budget and Control Board to approve your applying the \$975,000.00 presently held in escrow for the Roper Mountain Project to State Park Improvements.

As you have requested, this will be presented formally to the Budget and Control Board at the next meeting. It is my opinion, however, that the Board does not have authority to authorize the use of these funds as you are requesting. As you know, this \$975,000.00 is, in effect, a recovery of funds expended for architectural services and construction of the Roper Mountain Project. The original funds were derived from the issuance of State bonds, authorized specifically for Tricentennial capital purposes. The effect of this request would be to modify the original purpose for which the bonds were authorized and to divert this amount to Park improvements. I do not believe that the Budget and Control Board has statutory authority to modify legislative action to this extent.

Very truly yours,

P. C. Smith  
State Auditor

PCS:dr



EXHIBIT X  
OCT. 4, 1973

SOUTH CAROLINA COMMISSION ON HIGHER EDUCATION

RUTLEDGE BUILDING

1429 SENATE STREET

COLUMBIA, S. C. 29201

HOWARD R. BOOZER  
EXECUTIVE DIRECTOR

September 19, 1973

TELEPHONE  
803 / 758-2407

Mr. P. C. Smith  
State Auditor  
Post Office Box 11333  
Columbia, South Carolina 29211

Dear Mr. Smith:

A September 11 letter from Dr. William M. McCord, copy of which went to you, confirms our previous understanding of facts relating to determination of his 1973-74 salary:

\$42,066 approved and actual for 1971-72  
\$43,706 approved by Budget and Control Board for 1972-73 (3.9% over 1971-72)  
\$44,169 actual for 1972-73 (5% over 1971-72)  
\$46,598 proposed by Medical University (5.5% over actual 1972-73)  
➤ \$46,110 approved by Budget and Control Board for 1973-74 (5.5% over approved 1972-73)

Your September 14 letter appears to conclude discussion of Dr. McCord's 1973-74 salary by emphasizing the \$46,110 figure approved by the Budget and Control Board. We would like to advise Dr. McCord of this decision as soon as we can also advise him of the approved salaries for his other unclassified staff members.

The decision regarding Dr. McCord does, as you suggest, create a somewhat awkward salary situation with respect to Vice President James W. Colbert, Jr.:

\$41,715 approved and actual 1971-72  
\$43,801 actual (approved?) for 1972-73 (5% over 1971-72)  
\$46,210 proposed by Medical University for 1973-74 (5.5% over 1972-73)

Dr. Colbert's proposed 1973-74 salary of \$46,210 is, as you point out, higher than the \$46,110 approved for Dr. McCord. You indicate that Dr. McCord is aware of the possibility of a lower salary for Dr. Colbert. In responding to your request for assistance in determining the amount of such reduction, it would seem desirable to take two points into consideration.

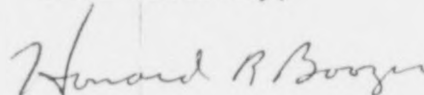


Mr. P. C. Smith  
September 19, 1973  
Page two

First, the amount should be relatively small since almost one quarter of the 1973-74 fiscal year has now passed; Dr. Colbert presumably has been paid so far at the rate proposed by the Medical University for 1973-74. Second, the Medical University apparently was satisfied with a differential of only \$388 between their 1973-74 salary proposals for Drs. McCord and Colbert. The Budget and Control Board might therefore wish to consider approving a 1973-74 salary of \$45,822 for Dr. Colbert (\$388 less than the approved 1973-74 salary for Dr. McCord). 500

I hope that these thoughts will be helpful to you and to the Budget and Control Board. We look forward to receiving the Board's decision regarding Dr. Colbert, as well as its approval of 1973-74 salaries of the other Medical University unclassified staff members, so we can, in turn, advise Dr. McCord.

Yours sincerely,

  
Howard R. Boozer

/jrt

REQUESTS FOR APPROVAL OF DUAL EMPLOYMENT

October 2, 1973

REQUESTING (SECONDARY) AGENCY	NAME OF APPLICANT AND PRESENT CLASSIFICATION	EMPLOYING (PRIMARY) AGENCY	DESCRIPTION OF EMPLOYMENT	AMOUNT & TERMS OF COMPENSATION	PRESENT SALARY
1. University of South Carolina	Larry H. Addington Professor	The Citadel	Teacher, History 101 Charleston Navy Base	\$700, 45 Hours Sept 24-Oct 31, 1973	\$16,500.00
2. University of South Carolina	John T. Anderson Education Program Consultant II	Department of Education	Teacher, Education USC Campus	\$800 4 Hours/Wk Fall Semester, 1973	\$13,649.00
3. University of South Carolina	W. Scott Barnes Planner IV	Governor's Task Force For Economic Growth	Teacher, Political Science 201 USC Campus	\$750, Mon/Wed 5:30-6:45 P.M. Sept 4-Dec 21, 1973	\$12,234.00
4. University of South Carolina	William R. Boone Instructor	Technical Education Midlands Tec	Teacher, Biology 101 USC Campus	\$1,600, 5½ Hrs/Wk Sept, 1973-May, 1974	\$12,350.00
5. University of South Carolina	Malcolm M. Brennan Professor	The Citadel	Teacher, English 102 Charleston Navy Base	\$700, 45 Hours Sept 16-Oct 16, 1973	\$16,640.00
6. University of South Carolina	Carl O. Clark Associate Professor (On Leave)	S. C. State College	Supervision Of One Physics Laboratory And One Recitation Section Each Semester-USC Campus	\$1,000, 6 Hrs/Wk Sept 1, 1973 - May 31, 1974	\$13,000.00
7. University of South Carolina	Giles G. Hall, Jr. Assistant Professor	S. C. State College	Teacher, English 101 Orangeburg Regional Hospital	\$800, 45 Hours Sept 4-Dec 21, 1973	\$11,300.00
8. University of South Carolina	George R. Holmes Teaching Psychologist	S. C. Department of Mental Health, Wm S. Hall Psych. Institute	Teacher, Psychology 103 USC Campus	\$1,300, Mon/Wed/Fri 2:30 - 3:20 P.M. Sept 1-Dec 31, 1973	\$19,299.00
9. University of South Carolina	J. Reid Ingraham Associate Professor	The Citadel	Teacher, Math 141 Charleston Navy Base	\$700, 45 Hours Oct 1-Nov 9, 1973	\$13,300.00

## REQUESTS FOR APPROVAL OF DUAL EMPLOYMENT

October 2, 1973

<u>REQUESTING (SECONDARY) AGENCY</u>	<u>NAME OF APPLICANT AND PRESENT CLASSIFICATION</u>	<u>EMPLOYING (PRIMARY) AGENCY</u>	<u>DESCRIPTION OF EMPLOYMENT</u>	<u>AMOUNT &amp; TERMS OF COMPENSATION</u>	<u>PRESENT SALARY</u>
10. University of South Carolina	W. Bland Mathis Assistant Professor	The Citadel	Teacher, English 101 Military Regional Campuses	\$600, 45 Hours Sept 4-Oct 11, 1973	\$12,780.00
11. University of South Carolina	Mary Mebane Associate Professor	S. C. State College	Teacher, English 462 USC Campus	\$1,000, Mon/Wed 5:30-6:45 P.M. Sept 4-Dec 21, 1973	\$14,500.00
12. University of South Carolina	Alan L. Pollack Exam Research Supervisor	State Personnel Division	Teacher, Education USC Campus	\$1,000, 3 Hrs/Wk Sept 4-Dec 21, 1973	\$18,456.00
13. University of South Carolina	Johnnie M. Sharpe Assistant Professor	S. C. State College	Teacher, English 101 Orangeburg Regional Hospital	\$700, 45 Hours Sept 4-Dec 21, 1973	\$10,000.00
14. University of South Carolina	Robert W. Smith Assistant Professor	The Citadel	Teacher, Bus. Admin. 350 Charleston Navy Base	\$600, 45 Hours Sept 27-Nov 6, 1973	\$10,800.00
15. University of South Carolina	Harvey A. Stackman Research & Stat Admin.	Division of Admin.	Teacher, Psychology 545 USC Campus	\$1,371, Tues/Thurs 8:00-9:15 A.M. Sept 1, 1973-Jan 1, 1973	\$16,159.00
16. University of South Carolina	Richard L. Stewart Civil Engineer IV	S. C. State Highway Department	Assist In Checking And Grading Homework Problems In Graduate Soil Mechanics Courses	\$100 Per Month, 10 Hrs/Wk-9 Months Weekends & Evenings	\$14,378.00
17. University of South Carolina	James R. Whitney Associate Professor	The Citadel	Teacher, Bus. Admin. 226 Charleston Navy Base	\$700, 45 Hours Sept 25-Nov 1, 1973	\$14,000.00
18. Vocational Rehabilitation Department	Gary N. Hanson Assistant Professor	Francis Marion College	Conduct Psychological Examinations of Clients	\$25.00 Per Client	\$13,700.00



## REQUESTS FOR APPROVAL OF DUAL EMPLOYMENT

October 2, 1973

<u>REQUESTING (SECONDARY) AGENCY</u>	<u>NAME OF APPLICANT AND PRESENT CLASSIFICATION</u>	<u>EMPLOYING (PRIMARY) AGENCY</u>	<u>DESCRIPTION OF EMPLOYMENT</u>	<u>AMOUNT &amp; TERMS OF COMPENSATION</u>	<u>PRESENT SALARY</u>
19. Vocational Rehabilitation Department	James R. Rice Teaching Psychiatrist I	S. C. Dept. of Mental Health, Wm. S. Hall Psych. Institute	Conduct Psychiatric Examinations of Clients	\$35.00 Per Client	\$30,500.00
20. Technical Education Palmer College	Joseph D. Blalock Systems Analyst II	S. C. State Board of Health	Teacher, Business Data Processing Courses	\$475 Per Course 2 Nights/Wk 6:00-10:00 P.M. 1973-74 School Yr.	\$12,200.00
21. S. C. Department of Archives & History	John M. Bryan Assistant Professor	University of South Carolina	Statewide Preservation Program, Historical Architecture And Preservation Planning		\$13,090.00
22. S. C. Department of Archives & History	Charles H. Randall Professor	University of South Carolina	Statewide Preservation Program, Preservation Law Studies		\$26,600.00
23. Clemson University	T. E. Chatham Dept. Chairman	Technical Education Sumter Area Tec	All Individuals Employed As Instructors, Short School For Water and Wasterwater Treatment Sept 11-14, 1973	\$120, 4 Hours	\$11,916.00
24. Clemson University	Jack Ferguson Instructor	Technical Education Sumter Area Tec	Same As Above	\$120, 4 Hours	\$ 9,934.00
25. Clemson University	Henry Gibson Pollution Control Supervisor III	Department of Health & Environmental Control	Same As Above	\$240, 8 Hours	\$16,431.00
26. Clemson University	Jim Gleman Pollution Control Supervisor III	Department of Health & Environmental Control	Same As Above	\$120, 4 Hours	\$16,203.00

## REQUESTS FOR APPROVAL OF DUAL EMPLOYMENT

October 2, 1973

<u>REQUESTING (SECONDARY) AGENCY</u>	<u>NAME OF APPLICANT AND PRESENT CLASSIFICATION</u>	<u>EMPLOYING (PRIMARY) AGENCY</u>	<u>DESCRIPTION OF EMPLOYMENT</u>	<u>AMOUNT &amp; TERMS OF COMPENSATION</u>	<u>PRESENT SALARY</u>
27. Clemson University	F. L. Green Dist. Director Engineering Health Services	S. C. State Board of Health	All Individuals Employed As Instructors, Short School For Water and Wasterwater Treatment Sept 11-14, 1973	\$165, 5½ Hours	\$16,113.00
28. Clemson University	Dana Love Enyironmental Engineer II	Department of Health & Environmental Control	Same As Above	\$180, 6 Hours	\$14,678.00

WINTHROP COLLEGE

THE SOUTH CAROLINA COLLEGE FOR WOMEN • ROCK HILL 29730

EXHIBIT XII  
OCT 4, 1973

OFFICE OF THE PRESIDENT

September 28, 1973

Mr. P. C. Smith  
State Auditor  
Office of the State Auditor  
P. O. Box 11333  
Columbia, South Carolina 29211

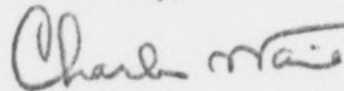
Dear Mr. Smith:

On the occasion of my initial visit with you some weeks ago, I expressed a desire of mine to establish cordial working relations with governmental leaders of South Carolina. My motivation is based on the certain knowledge that Winthrop College cannot be a true arm of the State unless it is known and properly represented through its officers.

In other years, I would have had the opportunity of appearing before the Budget and Control Board in regard to various matters including budgets for Winthrop. The new procedures call for representation of these matters to the Commission on Higher Education--and this is as it should be. Nonetheless, Winthrop is in a peculiar position because of the change of leadership, unusual legislative restraints, and customs of undefined origin. Accordingly, I would appreciate the opportunity of appearing before the Budget and Control Board at some early date, principally in the interest of assuring mutual understanding.

Winthrop College is a state college, and we want to carry out the total responsibilities conveyed in that identification. I hope the Budget and Control Board will share belief in the commitments we want to make.

Sincerely,



Charles B. Vail  
President

CBV:jtv



EXHIBIT XIII

OCT. 4, 1973

CAPITAL IMPROVEMENT BOND FUNDS

Proceeds on Hand 8/31/73	9,736,372.05	
Authorized Issue, Fiscal Year 1973-74	<u>35,000,000.00</u>	
Total Available During Fiscal Year 1973-74		44,736,372.05
Allocations:		
Under Contract	42,495,302.77	
Other	<u>2,419,000.00</u>	
Total		<u>44,914,302.77</u>
		<u>(177,930.72)</u>

10-4-73

## CAPITAL IMPROVEMENT BOND FUNDS

Agency	Total Authorized Balance Due 8-31-73	Allotted 1973-74	
		Under Contract	Other
1. Budget and Control Board	11,300,000.00	-0-	-0-
2. University of South Carolina	11,697,500.00	4,097,500.00	-0-
3. Clemson University	12,152,000.00	5,182,394.82	-0-
4. Medical University	15,497,500.00	750,000.00	-0-
5. The Citadel	3,000,000.00	-0-	-0-
6. Winthrop College	400,000.00	-0-	-0-
7. State College	1,859,257.54	199,257.54	-0-
8. Francis Marion College	7,280,000.00	4,320,600.00	164,000.00
9. College of Charleston	11,664,200.00	5,468,200.00	-0-
10. Lander College	2,700,000.00	-0-	250,000.00
11. Dept. of Education--Voc. Education	14,214,000.00	5,864,000.00	-0-
12. Technical & Comprehensive Education	8,743,000.00	79,465.00	225,000.00
13. Educational Television Commission	10,174,000.00	-0-	-0-
14. School for the Deaf and the Blind	1,100,000.00	-0-	-0-
15. Department of Mental Health	8,350,600.00	3,279,887.41	-0-
16. Department of Mental Retardation	8,383,300.00	1,554,095.00	330,000.00
17. John de la Howe School	925,000.00	-0-	300,000.00
18. Commission for the Blind	2,571,000.00	-0-	350,000.00
19. Department of Corrections	7,800,000.00	5,299,534.00	-0-
20. Department of Youth Services	4,118,250.00	-0-	500,000.00
21. Department of Agriculture	300,000.00	-0-	-0-
22. Wildlife & Marine Resources Dept.	4,010,000.00*	-0-	-0-
23. Dept. of Parks, Recreation & Tourism	4,079,750.00	400,000.00	-0-
24. Aeronautics Commission	1,400,000.00	500,000.00	-0-
25. Public Railways Commission	500,000.00	-0-	300,000.00
26. Employment Security Commission	4,000,000.00*	-0-	-0-
27. State Highway Department	500,000.00	-0-	-0-
28. State Ports Authority	17,270,000.00	5,500,369.00	-0-
Total	175,989,357.54	42,495,302.77	2,419,000.00

\* Includes project not subject to  
Fiscal Year 1973-74 issue limit.

CAPITAL IMPROVEMENT BOND FUNDS

Allocation Of \$2,419,000 For Priority Projects Not Under Contract

<u>AGENCY/Project</u>	<u>Amount Allotted</u>
FRANCIS MARION COLLEGE Utilities extension to serve Student Center and Classroom Building to be completed by May, 1974.	164,000
LANDER COLLEGE Two Butler type buildings for immediate use to meet critical classroom and faculty office space needs and for later conversion to a warehouse and Plant Superintendent office- workshop.	250,000
TECHNICAL AND COMPREHENSIVE EDUCATION	225,000
DEPARTMENT OF MENTAL RETARDATION Partial payment on purchase of 50-bed Live Oak Nursing Home (purchase price is \$510,000)	330,000
JOHN DE LA HOWE SCHOOL Part of new school building and heating plant	300,000
COMMISSION FOR THE BLIND First phase of new Training Center	350,000
DEPARTMENT OF YOUTH SERVICES Part of Florence Institution relocation	500,000
PUBLIC RAILWAYS COMMISSION Renovation of trackage and equipment	300,000



EXHIBIT XIV  
OCT. 4, 1973

GENERAL FUND OPERATIONS

Fiscal Year 1972-73

	<u>Budget</u>	<u>Actual</u>	<u>Balance</u>
Brought Forward from 1971-72	5 627 403 87	5 627 403 87 →	
Revenue	<u>678 300 000 00</u>	<u>705 566 523 44</u>	<u>(27 266 523 44)</u>
Total Funds Available	683 927 403 87	711 193 927 31	(27 266 523 44)
Appropriations	671 096 934 11		
Expenditures		650 115 536 85	
Appropriations Carried Forward		<u>11 422 072 09</u>	<u>9 559 325 17</u>
Balance End of Year	<u>12 830 469 76</u>	<u>49 656 318 37</u>	<u>36 825 845 61</u>

SURPLUS FUNDS

June 30, 1973

Surplus, Beginning of 1972-73	35 920 092 60
Gain from Fiscal Year 1972-73	<u>49 656 318 37</u>
Total Surplus at End of 1972-73	85 576 410 97
Less: (1) Appropriated (1973 Session)	28 211 563.00
(2) Projected Operating Loss, 1973-74	<u>12 320 230 31</u>
	<u>40 531 793 31</u>
Balance Unencumbered	<u>45 044 617 66</u>

# APPROPRIATION LAPSES

Fiscal Year 1972-73

Legislative Department	115 402 52
Judicial Department	36 117 64
Governor's Office	42 705 81
Lt. Governor's Office	795 48
Secretary of State's Office	2 69
Comptroller General's Office	8 521 84
Treasurer's Office	170 586 64
Attorney General's Office	58 17
Adjutant General's Office	20 104 42
Election Commission	12 592 41
Budget and Control Board:	
Administration	2 395 554 34
Retirement Contributions	91 638 42
Higher Education Commission	103 337 12
Department of Education	2 405 760 18
Board for Technical and Comprehensive Education	3 341 34
Educational Television Commission	2 990 62
Department of Archives and History	26 915 18
Confederate Relic Room	1 046 47
Arts Commission	974 66
Health Department	5 209 50
Department of Mental Health	218 825 18
Department of Mental Retardation	59 858 30
Commission on Alcoholism	306 76
Children's Bureau	13 607 57
Commission for the Blind	343 543 35
Commission on Aging	66 51
Housing Authority	10 91
Probation, Parole and Pardon Board	1 728 33
Department of Juvenile Placement and Aftercare	2 154 83
Pollution Control Authority	240 95
Water Resources Commission	52 321 36
Land Resources Conservation Commission	04
Department of Agriculture	2 212 44
Agricultural Marketing Commission	4 754 99
Department of Parks, Recreation and Tourism	28 640 82
Recreation Commission	04
Development Board	137 667 25
Public Service Commission	37 560 57
Industrial Commission	2 471 47
Insurance Department	59 831 12
Board of Bank Control	56 506 99
Dairy Commission	15 567 97

Appropriation Lapses  
Fiscal Year 1972-73  
Page 2

Department of Labor	95 767 54
Aeronautics Commission	7 221 77
Contractors' Licensing Board	1 050 41
Tax Commission	406 63
Alcoholic Beverage Control Board	30 875 23
Disaster Preparedness Agency	5 918 70
Department of Veterans Affairs	33 86
Miscellaneous Appropriations	434 384 00
Contributions	2 287 05
Aid to Subdivisions	<u>2 499 846 78</u>
Total	<u>9 559 325 17</u>



GENERAL FUND REVENUE COLLECTIONS

Fiscal Year 1972-73

	<u>Revised Estimate</u>	<u>Collections</u>	<u>Balance</u>
Admissions Tax	2,950,000.00	2,894,551.89	55,448.11
Alcoholic Liquors Tax	22,500,000.00	23,478,732.68	(978,732.68)
Bank Tax	1,560,000.00	1,703,466.04	(143,466.04)
Beer and Wine Tax	32,000,000.00	31,784,282.53	215,717.47
Building and Loan Associations	400,000.00	911,450.78	(511,450.78)
Business License Tax	20,300,000.00	20,505,360.10	(205,360.10)
Coin-Operated Device Tax	1,020,000.00	1,084,887.31	(64,887.31)
Contractors' License Tax	290,000.00	320,833.77	(30,833.77)
Corporation License Tax	5,750,000.00	6,684,920.53	(934,920.53)
Documentary Tax	5,200,000.00	5,757,433.83	(557,433.83)
Earned on Investments	7,500,000.00	10,282,397.37	(2,782,397.37)
Electric Power Tax	8,500,000.00	8,628,583.91	(128,583.91)
Estate Tax	4,500,000.00	4,360,613.43	139,386.57
Fertilizer Inspection Tax	250,000.00	251,166.42	(1,166.42)
Gasoline Tax - Counties	14,650,000.00	14,621,274.53	28,725.47
Gift Tax	200,000.00	569,003.84	(369,003.84)
Income Tax	229,500,000.00	243,909,746.93	(14,409,746.93)
Insurance Tax	17,450,000.00	18,810,503.75	(1,360,503.75)
Motor Transport Fees	1,250,000.00	1,350,189.33	(100,189.33)
Retail Sales Tax	280,800,000.00	286,191,486.74	(5,391,486.74)
Retailers License Tax	530,000.00	422,086.67	107,913.33
Soft Drinks Tax	9,400,000.00	8,981,190.37	418,809.63
Workmen's Compensation Tax	1,600,000.00	1,722,894.44	(122,894.44)
Public Service Assessment	600,000.00	689,655.37	(89,655.37)
Public Service Authority	1,000,000.00	1,007,194.78	(7,194.78)
Department of Agriculture	5,100,000.00	5,263,278.16	(163,278.16)
Miscellaneous Departmental Revenue	2,000,000.00	1,977,779.94	22,220.06
Department-Supported Appropriations	1,500,000.00	1,401,558.00	98,442.00
 Total	 <u>678,300,000.00</u>	 <u>705,566,523.44</u>	 <u>(27,266,523.44)</u>

Oct. 4, 1973

SINKLER GIBBS SIMONS & GUÉRARD  
ATTORNEYS & COUNSELLORS AT LAW  
PROFESSIONAL ASSOCIATION

TELEPHONE 722-3366  
AREA CODE 803

HUGER SINKLER  
CHARLES H. GIBBS  
ALBERT SIMONS, JR.  
THEODORE B. GUÉRARD  
G. DANA SINKLER  
THOMAS A. HUTCHESON  
ROBERT H. HOOD  
CHARLES F. AILSTOCK  
M. WILLIAM YOUNGBLOOD, JR.  
JOHN H. WARREN, III

2 PRIOLEAU STREET

CHARLESTON, S. C. 29402

POST OFFICE BOX 340

November 28, 1973

Honorable Pat Smith, State Auditor  
P. O. Box 11333  
Columbia, S.C. 29291

Gentlemen:

The Greenville County Council has heretofore approved financing by Emery Industries, Inc. of a \$1,000,000 industrial revenue note, pursuant to Act No. 103 of the 1967 Acts and Joint Resolutions of the South Carolina General Assembly. The Greenville County petition was considered and approved by the State Budget and Control Board on October 5, 1973. Notice, as required by the Act, was published on October 17, 1973.

Subsequent to official action by the State Board and by the County Council, the prospective purchaser of the Note has agreed with the Lessee, Emery Industries, to delete the requirement of a mortgage to secure payment of the Note.

Although we are of the opinion that deletion of the mortgage will not materially affect the obligation of any party to the financing, it seemed to me appropriate to bring this changed circumstance to the attention of the State Board, and to request that the Board discuss the matter at its December 4, 1973 meeting; if the financing, as now contemplated, meets with the approval of the Board, I would appreciate a letter confirming the Board's awareness of the deletion of a mortgage requirement.

Sincerely yours,

*Huger*

HS:mht

BUDGET AND CONTROL BOARD

PROPOSED AGENDA

OCTOBER 4 1973

Selection Of Architects

- A. Employment Security Commission  
Architects - Geiger, McElveen & Kennedy
- B. Parks Recreation and Tourism  
Architects - McMillan, Bunes, Townsend & Bowen
- C. Adjutant General  
Architects - Holladay, Coleman, Williams and Associates

Foreign Travel

- A. Mental Health Commission - Ms. Pamela Y. Drake to attend conference in Montreux, Switzerland.
- B. Clemson University - Dr. S. C. Anand and Dr. H. W. Busching to attend conference in Montreal, Canada.
- C. University of South Carolina - Mrs. Eileen C. Leaphart to attend a conference in Puerto Rico.
- D. University of South Carolina - D. J. Colquhoun to attend a conference in New Zealand.
- E. Clemson University - Dr. John W. Huffman to attend a conference in Kingston, Jamaica.

Industrial Revenue Bonds

- A. Greenville County - \$1 450 000  
G. C. Conn. Ltd (lessee)
- B. Greenville County - \$ 1 000 000  
Emery Industries, Inc. (lessee)
- C. Aiken County - \$ 600 000  
Tilbury Associates (lessee)
- D. Lancaster County - \$ 1 000 000  
Dana Corp. (lessee)

Department of Insurance - request for the continued employment of Robert H. Hodges, aged 70.

Parks, Recreation & Tourism - request for a Budget and Control Board ruling on use of Roper Mountain Exhibit funds.



Medical University - request for salary approval for Dr. James W. Colbert, Vice-President.

Board Of Corrections - request by the Department for approval of several construction projects.

Personnel Division - presentation for approval of twenty-eight requests for dual employment.

Board of Economic Advisors - report on estimated revenue for the fiscal year 1974-75.

Capital Improvement Bonds - final allocation of funds for 1973-74.

Medical University - request approval of following architects.

Combined Facilities - Perkins & Will and Lockwood Greene

Allied Health Building - Geiger, McElveen & Kennedy

Continuing Education Building - Lyles, Bissett, Carlyle & Wolfe



Dwight A. Holder  
Chairman

P. O. Box 247  
Pickens, South Carolina 29671

September 5, 1973

The Honorable P. C. Smith  
Secretary to the Board  
State Budget and Control Board  
Post Office Box 11333  
Columbia, South Carolina 29211

Dear Pat:

Please accept in behalf of the State Budget and Control Board this official request of the Parks, Recreation and Tourism Commission that the approximately \$975,000.00 being held in escrow for the state's project on Roper Mountain in Greenville County be released to our department, to be used for sorely needed capital improvements in state parks throughout South Carolina.

This Commission at its meeting of August 31, 1973 concluded that it is no longer feasible to pursue completion of the Fuller-designed geodesic structure on the site, due to sharp increases in construction costs and a refusal by the Department of Housing and Urban Development to approve the only avenue left open to us in our efforts to bring the project to a successful conclusion.

Therefore, the escrow funds will not be needed for the envisioned purpose, however, they could be put to immediate and good use by being used to provide to our citizens throughout the State new and improved recreational facilities in the state parks.

We pray that the Board will give full and positive consideration to this request.

Very truly yours,

Dwight A. Holder  
Chairman

DAH:JL:dm

*Oct. 1973*

September 7, 1973

Mr. Dwight A. Holder, Chairman  
Parks, Recreation and Tourism  
Post Office Box 247  
Pickens, South Carolina 29671

Dear Mr. Holder:

In your letter of September 5 you have requested the Budget and Control Board to approve your applying the \$975,000.00 presently held in escrow for the Roper Mountain Project to State Park Improvements.

As you have requested, this will be presented formally to the Budget and Control Board at the next meeting. It is my opinion, however, that the Board does not have authority to authorize the use of these funds as you are requesting. As you know, this \$975,000.00 is, in effect, a recovery of funds expended for architectural services and construction of the Roper Mountain Project. The original funds were derived from the issuance of State bonds, authorized specifically for Tricentennial capital purposes. The effect of this request would be to modify the original purpose for which the bonds were authorized and to divert this amount to Park improvements. I do not believe that the Budget and Control Board has statutory authority to modify legislative action to this extent.

Very truly yours,

P. C. Smith  
State Auditor

PCS:dr



# The State of South Carolina



Attorney General  
DANIEL R. MCLEOD

Attorney General  
Columbia

September 25, 1973

The Honorable John C. West  
Governor  
Columbia, South Carolina

Dear Governor West:

You have inquired as to whether funds in the approximate amount of \$975,000 derived from the settlement of a lawsuit instituted by the former Tricentennial Commission against certain parties must be retained by the Department of Parks, Recreation and Tourism (or the Budget and Control Board which now has custody of the funds) or whether such funds have reverted to the general funds of the State. The additional inquiry is made as to whether the Parks, Recreation and Tourism Commission may utilize the funds for capital improvements throughout the State Parks system.

Act No. 610, approved June 30, 1971, provided that "all -- funds and all other properties of the South Carolina Tricentennial Commission are hereby transferred to the Department of Parks, Recreation and Tourism."

The funds which are now held represent the damages which were recovered by reason of certain defects which appeared in buildings constructed by the Tricentennial Commission in Charleston and at Roper Mountain. The building at Charleston has been completed, while the building at Roper Mountain is incomplete and its construction has apparently been abandoned.

The funds for the construction of these buildings were derived from the proceeds of bonds which were issued pursuant to the provisions of the State Capital Improvement Bonds Act of 1968. The bonds were issued for the purpose of "acquisition of land and construction of facilities relating to the official Tricentennial Celebration of the founding of South Carolina." The bonds are not revenue bonds, but are

The Honorable John C. West  
Page 2  
September 25, 1973

payable from the State income tax. The validity of the State Capital Improvement Bond Act was upheld in Mims v. McNair, 252 S.C. 64, 165 S.E.2d 365, under the principle of the special fund doctrine. Section 18 of the Act of 1968 provides:

"The proceeds derived from the sale of State capital improvement bonds shall be applied only to the purposes for which the bonds are issued."

It appears to be an established principle of law that when funds are raised by the issuance of bonds for a designated purpose, they cannot be diverted to some other purpose. The proceeds of a bond issue are in the nature of a trust fund and must be used for the purpose for which they are approved and issued. 63 Am.Jur.2d Public Funds § 4 at 399 (1972).

It is my opinion that the General Assembly is the only body which may authorize a diversion of the proceeds of the bonds which have been issued. The amount recovered for damages by reason of the failures which took place in the buildings is the same thing, and stands in the same legal position, as the original proceeds of bonds which were used for the construction of the facilities. The Act of 1971, which vested in the Department of Parks, Recreation and Tourism "all funds of the South Carolina Tricentennial Commission," did not have the effect of transferring these funds to the unfettered use of that Commission. The funds were not "funds of the Tricentennial Commission" except in the limited sense that they were under the control of that Commission, subject to being used for the purposes for which they were received. Instead, that Commission held the monies impressed with a trust and they were so received by the Parks, Recreation and Tourism Commission under the 1971 Act.

I am aware of no vested interests existing which would preclude the diversion of the proceeds to some other use, but that diversion must be accomplished by directive of the General Assembly. Therefore, these monies must, in my opinion, be held until they can be applied to the uses for which they were intended or until the General Assembly shall otherwise declare.

Very truly yours,

Daniel R. McLeod  
Attorney General

2192

The Honorable John C. West  
Page 2  
September 25, 1973

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Very truly yours,

Daniel R. McLeod  
Attorney General

2192





SOUTH CAROLINA COMMISSION ON HIGHER EDUCATION

RUTLEDGE BUILDING  
1429 SENATE STREET  
COLUMBIA, S. C. 29201

HOWARD R. BOOZER  
EXECUTIVE DIRECTOR

September 19, 1973

TELEPHONE  
803 / 758-2407

Mr. P. C. Smith  
State Auditor  
Post Office Box 11333  
Columbia, South Carolina 29211

Dear Mr. Smith:

A September 11 letter from Dr. William M. McCord, copy of which went to you, confirms our previous understanding of facts relating to determination of his 1973-74 salary:

\$42,066 approved and actual for 1971-72  
\$43,706 approved by Budget and Control Board for 1972-73 (3.9% over 1971-72)  
\$44,169 actual for 1972-73 (5% over 1971-72)  
\$46,598 proposed by Medical University (5.5% over actual 1972-73)  
\$46,110 approved by Budget and Control Board for 1973-74 (5.5% over approved 1972-73)

Your September 14 letter appears to conclude discussion of Dr. McCord's 1973-74 salary by emphasizing the \$46,110 figure approved by the Budget and Control Board. We would like to advise Dr. McCord of this decision as soon as we can also advise him of the approved salaries for his other unclassified staff members.

The decision regarding Dr. McCord does, as you suggest, create a somewhat awkward salary situation with respect to Vice President James W. Colbert, Jr.:

\$41,715 approved and actual 1971-72  
\$43,801 actual (approved?) for 1972-73 (5% over 1971-72)  
\$46,210 proposed by Medical University for 1973-74 (5.5% over 1972-73)

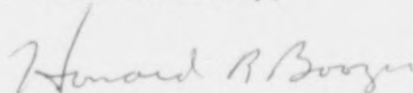
Dr. Colbert's proposed 1973-74 salary of \$46,210 is, as you point out, higher than the \$46,110 approved for Dr. McCord. You indicate that Dr. McCord is aware of the possibility of a lower salary for Dr. Colbert. In responding to your request for assistance in determining the amount of such reduction, it would seem desirable to take two points into consideration.

Mr. P. C. Smith  
September 19, 1973  
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First, the amount should be relatively small since almost one quarter of the 1973-74 fiscal year has now passed; Dr. Colbert presumably has been paid so far at the rate proposed by the Medical University for 1973-74. Second, the Medical University apparently was satisfied with a differential of only \$388 between their 1973-74 salary proposals for Drs. McCord and Colbert. The Budget and Control Board might therefore wish to consider approving a 1973-74 salary of \$45,822 for Dr. Colbert (\$388 less than the approved 1973-74 salary for Dr. McCord). 500

I hope that these thoughts will be helpful to you and to the Budget and Control Board. We look forward to receiving the Board's decision regarding Dr. Colbert, as well as its approval of 1973-74 salaries of the other Medical University unclassified staff members, so we can, in turn, advise Dr. McCord.

Yours sincerely,

  
Howard R. Boozer

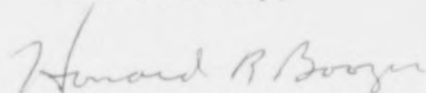
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I hope that these thoughts will be helpful to you and to the Budget and Control Board. We look forward to receiving the Board's decision regarding Dr. Colbert, as well as its approval of 1973-74 salaries of the other Medical University unclassified staff members, so we can, in turn, advise Dr. McCord.

Yours sincerely,

  
Howard R. Boozer

/jrt



REQUESTS FOR APPROVAL OF DUAL EMPLOYMENT

October 2, 1973

REQUESTING (SECONDARY) AGENCY	NAME OF APPLICANT AND PRESENT CLASSIFICATION	EMPLOYING (PRIMARY) AGENCY	DESCRIPTION OF EMPLOYMENT	AMOUNT & TERMS OF COMPENSATION	PRESENT SALARY
1. University of South Carolina	Larry H. Addington Professor	The Citadel	Teacher, History 101 Charleston Navy Base	\$700, 45 Hours Sept 24-Oct 31, 1973	\$16,500.00
2. University of South Carolina	John T. Anderson Education Program Consultant II	Department of Education	Teacher, Education USC Campus	\$800 4 Hours/Wk Fall Semester, 1973	\$13,649.00
3. University of South Carolina	W. Scott Barnes Planner IV	Governor's Task Force For Economic Growth	Teacher, Political Science 201 USC Campus	\$750, Mon/Wed 5:30-6:45 P.M. Sept 4-Dec 21, 1973	\$12,234.00
4. University of South Carolina	William R. Boone Instructor	Technical Education Midlands Tec	Teacher, Biology 101 USC Campus	\$1,600, 5½ Hrs/Wk Sept, 1973-May, 1974	\$12,350.00
5. University of South Carolina	Malcolm M. Brennan Professor	The Citadel	Teacher, English 102 Charleston Navy Base	\$700, 45 Hours Sept 16-Oct 16, 1973	\$16,640.00
6. University of South Carolina	Carl O. Clark Associate Professor (On Leave)	S. C. State College	Supervision Of One Physics Laboratory And One Recitation Section Each Semester-USC Campus	\$1,000, 6 Hrs/Wk Sept 1, 1973 - May 31, 1974	\$13,000.00
7. University of South Carolina	Giles G. Hall, Jr. Assistant Professor	S. C. State College	Teacher, English 101 Orangeburg Regional Hospital	\$800, 45 Hours Sept 4-Dec 21, 1973	\$11,300.00
8. University of South Carolina	George R. Holmes Teaching Psychologist	S. C. Department of Mental Health, Wm S. Hall Psych. Institute	Teacher, Psychology 103 USC Campus	\$1,300, Mon/Wed/Fri 2:30 - 3:20 P.M. Sept 1-Dec 31, 1973	\$19,299.00
9. University of South Carolina	J. Reid Ingraham Associate Professor	The Citadel	Teacher, Math 141 Charleston Navy Base	\$700, 45 Hours Oct 1-Nov 9, 1973	\$13,300.00

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October 2, 1973

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10. University of South Carolina	W. Bland Mathis Assistant Professor	The Citadel	Teacher, English 101 Military Regional Campuses	\$600, 45 Hours Sept 4-Oct 11, 1973	\$12,780.00
11. University of South Carolina	Mary Mebane Associate Professor	S. C. State College	Teacher, English 462 USC Campus	\$1,000, Mon/Wed 5:30-6:45 P.M. Sept 4-Dec 21, 1973	\$14,500.00
12. University of South Carolina	Alan L. Pollack Exam Research Supervisor	State Personnel Division	Teacher, Education USC Campus	\$1,000, 3 Hrs/Wk Sept 4-Dec 21, 1973	\$18,456.00
13. University of South Carolina	Johnnie M. Sharpe Assistant Professor	S. C. State College	Teacher, English 101 Orangeburg Regional Hospital	\$700, 45 Hours Sept 4-Dec 21, 1973	\$10,000.00
14. University of South Carolina	Robert W. Smith Assistant Professor	The Citadel	Teacher, Bus. Admin. 350 Charleston Navy Base	\$600, 45 Hours Sept 27-Nov 6, 1973	\$10,800.00
15. University of South Carolina	Harvey A. Stackman Research & Stat Admin.	Division of Admin.	Teacher, Psychology 545 USC Campus	\$1,371, Tues/Thurs 8:00-9:15 A.M. Sept 1, 1973-Jan 1, 1973	\$16,159.00
16. University of South Carolina	Richard L. Stewart Civil Engineer IV	S. C. State Highway Department	Assist In Checking And Grading Homework Problems In Graduate Soil Mechanics Courses	\$100 Per Month, 10 Hrs/Wk-9 Months Weekends & Evenings	\$14,378.00
17. University of South Carolina	James R. Whitney Associate Professor	The Citadel	Teacher, Bus. Admin. 226 Charleston Navy Base	\$700, 45 Hours Sept 25-Nov 1, 1973	\$14,000.00
18. Vocational Rehabilitation Department	Gary N. Hanson Assistant Professor	Francis Marion College	Conduct Psychological Examinations of Clients	\$25.00 Per Client	\$13,700.00

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October 2, 1973

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19. Vocational Rehabilitation Department	James R. Rice Teaching Psychiatrist I	S. C. Dept. of Mental Health, Wm. S. Hall Psych. Institute	Conduct Psychiatric Examinations of Clients	\$35.00 Per Client	\$30,500.00
20. Technical Education Palmer College	Joseph D. Blalock Systems Analyst II	S. C. State Board of Health	Teacher, Business Data Processing Courses	\$475 Per Course 2 Nights/Wk 6:00-10:00 P.M. 1973-74 School Yr.	\$12,200.00
21. S. C. Department of Archives & History	John M. Bryan Assistant Professor	University of South Carolina	Statewide Preservation Program, Historical Architecture And Preservation Planning		\$13,090.00
22. S. C. Department of Archives & History	Charles H. Randall Professor	University of South Carolina	Statewide Preservation Program, Preservation Law Studies		\$26,600.00
23. Clemson University	T. E. Chatham Dept. Chairman	Technical Education Sumter Area Tec	All Individuals Employed As Instructors, Short School For Water and Wasterwater Treatment Sept 11-14, 1973	\$120, 4 Hours	\$11,916.00
24. Clemson University	Jack Ferguson Instructor	Technical Education Sumter Area Tec	Same As Above	\$120, 4 Hours	\$ 9,934.00
25. Clemson University	Henry Gibson Pollution Control Supervisor III	Department of Health & Environmental Control	Same As Above	\$240, 8 Hours	\$16,431.00
26. Clemson University	Jim Gleman Pollution Control Supervisor III	Department of Health & Environmental Control	Same As Above	\$120, 4 Hours	\$16,203.00



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October 2, 1973

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27. Clemson University	F. L. Green Dist. Director Engineering Health Services	S. C. State Board of Health	All Individuals Employed As Instructors, Short School For Water and Wasterwater Treatment Sept 11-14, 1973	\$165, 5½ Hours	\$16,113.00
28. Clemson University	Dana Love Environmental Engineer II	Department of Health & Environmental Control	Same As Above	\$180, 6 Hours	\$14,678.00

GENERAL FUND OPERATIONS

Fiscal Year 1972-73

	<u>Budget</u>	<u>Actual</u>	<u>Balance</u>
Brought Forward from 1971-72	5 627 403 87	5 627 403 87	
Revenue	<u>678 300 000 00</u>	<u>705 566 523 44</u>	<u>(27 266 523 44)</u>
Total Funds Available	683 927 403 87	711 193 927 31	(27 266 523 44)
Appropriations	671 096 934 11		
Expenditures		650 115 536 85	
Appropriations Carried Forward		<u>11 422 072 09</u>	<u>9 559 325 17</u>
Balance End of Year	<u>12 830 469 76</u>	<u>49 656 318 37</u>	<u>36 825 845 61</u>

SURPLUS FUNDS

June 30, 1973

Surplus, Beginning of 1972-73		35 920 092 60
Gain from Fiscal Year 1972-73		<u>49 656 318 37</u>
Total Surplus at End of 1972-73		85 576 410 97
Less: (1) Appropriated (1973 Session)	28 211 563.00	
(2) Projected Operating Loss, 1973-74	<u>12 320 230 31</u>	
		<u>40 531 793 31</u>
Balance Unencumbered		<u>45 044 617 66</u>

# APPROPRIATION LAPSES

Fiscal Year 1972-73

Legislative Department	115 402 52
Judicial Department	36 117 64
Governor's Office	42 705 81
Lt. Governor's Office	795 48
Secretary of State's Office	2 69
Comptroller General's Office	8 521 84
Treasurer's Office	170 586 64
Attorney General's Office	58 17
Adjutant General's Office	20 104 42
Election Commission	12 592 41
Budget and Control Board:	
Administration	2 395 554 34
Retirement Contributions	91 638 42
Higher Education Commission	103 337 12
Department of Education	2 405 760 18
Board for Technical and Comprehensive Education	3 341 34
Educational Television Commission	2 990 62
Department of Archives and History	26 915 18
Confederate Relic Room	1 046 47
Arts Commission	974 66
Health Department	5 209 50
Department of Mental Health	218 825 18
Department of Mental Retardation	59 858 30
Commission on Alcoholism	306 76
Children's Bureau	13 607 57
Commission for the Blind	343 543 35
Commission on Aging	66 51
Housing Authority	10 91
Probation, Parole and Pardon Board	1 728 33
Department of Juvenile Placement and Aftercare	2 154 83
Pollution Control Authority	240 95
Water Resources Commission	52 321 36
Land Resources Conservation Commission	04
Department of Agriculture	2 212 44
Agricultural Marketing Commission	4 754 99
Department of Parks, Recreation and Tourism	28 640 82
Recreation Commission	04
Development Board	137 667 25
Public Service Commission	37 560 57
Industrial Commission	2 471 47
Insurance Department	59 831 12
Board of Bank Control	56 506 99
Dairy Commission	15 567 97



Appropriation Lapses  
Fiscal Year 1972-73  
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Department of Labor	95 767 54
Aeronautics Commission	7 221 77
Contractors' Licensing Board	1 050 41
Tax Commission	406 63
Alcoholic Beverage Control Board	30 875 23
Disaster Preparedness Agency	5 918 70
Department of Veterans Affairs	33 86
Miscellaneous Appropriations	434 384 00
Contributions	2 287 05
Aid to Subdivisions	<u>2 499 846 78</u>
Total	<u>9 559 325 17</u>

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