

MINUTES OF
BUDGET AND CONTROL BOARD
MEETING

June 29, 1993

STATE OF SOUTH CAROLINA
State Budget and Control Board
OFFICE OF THE EXECUTIVE DIRECTOR

CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL



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COLUMBIA, SOUTH CAROLINA 29211
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JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER P. CARTER
EXECUTIVE DIRECTOR

June 29, 1993

MEMORANDUM

TO: Budget and Control Board Division Directors
FROM: Donna K. Williams, Assistant Executive Director
SUBJECT: Summary of Board Actions at June 29, 1993, Meeting

This listing of actions is an unofficial **summary** of the Board actions taken at the referenced meeting. The minutes of the meeting are presented in a separate, more detailed document which becomes official when approved by the Board at a subsequent meeting.

1. Adopted the agenda after adding executive session #2A, Governor's Office legal briefing, and executive session #3A, Human Resource Management compensation matter;
2. Approved the minutes of the June 8, 1993, Budget and Control Board meeting;
3. Acting as the South Carolina Resources Authority, approved the minutes of the June 8, 1993, meeting;
4. Received as information a Budget Division report that the transfer of \$610,022 of personal service funds was approved during May to bring the total approved for transfer during the fiscal year to \$7,250,850;
5. Approved the following property acquisitions in accord with § 1-11-65:

(a)	<u>Agency:</u>	Highway Department
	<u>Acreage:</u>	20 acres
	<u>Location:</u>	Anderson County
	<u>County:</u>	Anderson
	<u>Purpose:</u>	To construct a new maintenance facility
	<u>Appraised Value:</u>	\$300,000
	<u>Sale Price/Seller:</u>	\$230,000 from Carithers & Fretwell Real Estate Co.
	<u>Source of Funds:</u>	Gas tax revenue funds
	<u>Project Number:</u>	U12-9576
	<u>Environmental Study:</u>	Acceptable
	<u>Approved by:</u>	JBRC on 6-22-93

06225

Summary of BCB Actions
Page 2
June 29, 1993, Meeting

- (b) Agency: Trident Technical College
Acreage: 117.49 acres
Location: Rivers Avenue, Charleston
County: Charleston
Purpose: To provide space for future buildings and parking
Appraised Value: \$6,100,000
Sale Price/Seller: \$5,845,000 from Commissioners of Public Works
Source of Funds: Local funds (\$1,000,000) & Student Income Funds
Project Number: H59-9651
Environmental Study: Acceptable
Approved by: JBRC on 6-22-93 and CHE on 6-3-93
- (c) Agency: Mental Health
Acreage: 1.25 acres
Location: Colleton County
County: Colleton
Purpose: To construct a satellite office
Appraised Value: \$20,000
Sale Price/Seller: \$15,012 from Glennie L. and Dorothy D. Fender
Source of Funds: Local funds
Project Number: J12-9547
Environmental Study: Acceptable
Approved by: JBRC on 6-22-93

6. Approved the following easements in accord with Code Sections 1-11-80, 1-11-90 and 1-11-100:

- (a) County Location: Lexington
From: Budget and Control Board
To: BellSouth Telecommunications, Inc.
Description/Purpose: switching station on the north side of Columbia Circle, approximately 7 miles southwest of the City of Columbia
Consideration: \$16,750
- (b) County Location: Florence
From: Budget and Control Board
To: E. I. Dupont de Nemours & Co., Inc.
Description/Purpose: construct a pipeline into the Great Pee Dee River for wastewater discharge
Consideration: \$200

06226

Summary of BCB Actions
Page 3
June 29, 1993, Meeting

7. Received as information a report that the Division of General Services, in accord with Code Section 11-35-1230, has audited the procurement activity of the Workers' Compensation Commission for which certification above the \$2,500 limit was not requested;
8. Received as information a Division of Local Government report that five grants totaling \$559,000 had been approved during the January - March, 1993, period;
9. Received as information the US District Court's decision to allow the State of South Carolina to use BellSouth's Corporate Network in the event that the State's primary communications network and backup communications network are damaged by natural or man-made disaster;
10. Approved procedures for processing fund transfers in accord with Provisos 129.13 and 1A.1 of the 1993-94 Appropriations Act, as recommended by the Budget Division;
11. Approved the selection of the following law firms to provide bond counsel services:
 - (a) The Citadel, for the first of four projects being undertaken to replace four existing barracks facility, Student and Faculty Housing Revenue Bonds or some other form of revenue bonds, estimated amount \$12,000,000: Nelson, Mullins, Riley and Scarborough; and
 - (b) SC Educational Television Commission, an amount up to \$7,000,000 for equipment for ETV facility via third-party financing: McNair & Sanford, P.A.
12. Authorized Lander University to enter into a three-year lease (August 1, 1993 through July 31, 1996) of Buildings B and C of the Greenwood High Apartments at 835 South Main Street in Greenwood, with an option to extend the lease for two additional years and with an annual lease payment of \$230,000;
13. Waived the requirement for an environmental audit in the acquisition of a 100' x 3.1 mile abandoned railroad right-of-way through Manchester State Forest from Norfolk Southern Railroad by the Forestry Commission, as recommended by the Division of General Services;
14. Agreed to meet at 10:00 a.m. on Wednesday, July 14, 1993, in the Governor's conference room in the State House;
15. Received as information a briefing on the Alexander v. McLawhorn, et al. case;

06227

Summary of BCB Actions
Page 4
June 29, 1993, Meeting

16. Allocated \$74,168.85 of 1992-93 Civil Contingent Fund monies to the Coastal Council to deal with a series of pending litigation issues; and authorized the Division of Insurance Services to transfer such monies as are necessary under Proviso 14J.8 of the 1993-94 Appropriations Act to effect settlement of such issues;
17. Allocated the balance of the 1992-93 Civil Contingent Fund monies to the Division of Insurance Services to deal with pending litigation issues involving the Governor's Office and the State Tax Commission;
18. Authorized the Wil Lou Gray Opportunity School to enter into a personnel settlement with seven present and former teachers;
19. Authorized a salary of \$76,261 for Ms. Flora Boyd as Director of the Department of Juvenile Justice;
20. Received a briefing on the property reinsurance program with IRM Services; and approved a one-year negotiated program with IRM Services;
21. Authorized the State Law Enforcement Division and the Tax Commission to retain the services of the Gignilliat, Savitz and Bettis law firm at a rate of \$95 per hour, not to exceed \$5,000 per agency;
22. Appointed Boykin Rose as the Interim Director of Public Safety at a salary of \$80,000 per year;
23. Received a legal briefing relating to the South Carolina Resources Authority.

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06228

MINUTES OF STATE BUDGET AND CONTROL BOARD MEETING

JUNE 29, 1993

9:30 A. M.

The Budget and Control Board met at 9:30 a.m. on Tuesday, June 29, 1993, in the Governor's conference room in the State House, with the following members in attendance:

Governor Carroll A. Campbell, Jr., Chairman;
Mr. Grady L. Patterson, Jr., State Treasurer;
Mr. Earle E. Morris, Jr., Comptroller General;
Senator John Drummond, Chairman, Senate Finance Committee;
Representative William D. Boan, Chairman, Ways and Means Committee.

Also attending were Executive Director Luther F. Carter; Board Secretary Donna K. Williams; Deputy Executive Directors Richard W. Kelly and Robert C. Toomey; General Counsel Joseph D. Shine; Governor's Senior Executive Assistant W. Eddie Gunn; Deputy State Treasurer Sandy A. Huey and Senior Assistant State Treasurer C. C. "Chuck" Sanders, Jr.; Assistant Comptrollers General George M. Lusk and Kinsey Jenkins; Finance Committee Chief of Staff Robert Merritt; Ways and Means Committee Director of Research Frank Fusco; and other Board staff.

Adoption of Agenda

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board adopted the agenda after adding executive session #2A, Governor's Office legal briefing, and executive session #3A, Human Resource Management compensation matter.

Minutes of Previous Meeting

Board members previously had been furnished a draft version of the minutes of the June 8, 1993, meetings of the Budget and Control Board and of the South Carolina Resources Authority.

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board approved the minutes of the June 8, 1993, Budget and Control Board meeting.

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 2

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board, acting as the South Carolina Resources Authority, approved the minutes of the June 8, 1993, meeting.

Blue Agenda

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board approved all items included on the blue agenda. Blue agenda items are identified as such in these minutes.

Budget Division: 1992-93 Authorized Personal Service Transfers Report, May (B#1)

The Board received as information a Budget Division report that the transfer of \$610,022 of personal service funds was approved during May to bring the total approved for transfer during the fiscal year to \$7,250,850.

Information relating to this matter has been retained in these files and is identified as Exhibit 1.

General Services: Property Acquisitions (Blue Agenda #2)

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board approved the following property acquisitions in accord with Code Section 1-11-65:

- | | | |
|-----|----------------------|---|
| (a) | <u>Agency:</u> | Highway Department |
| | Acreage: | 20 acres |
| | Location: | Anderson County |
| | County: | Anderson |
| | Purpose: | To construct a new maintenance facility |
| | Appraised Value: | \$300,000 |
| | Sale Price/ Seller: | \$230,000 from Carithers & Fretwell Real Estate Co. |
| | Source of Funds: | Gas tax revenue funds |
| | Project Number: | U12-9576 |
| | Environmental Study: | Acceptable |
| | Approved by: | JBRC on 6-22-93 |

66230

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 3

- (b) Agency: Trident Technical College
 Acreage: 117.49 acres
 Location: Rivers Avenue, Charleston
 County: Charleston
 Purpose: To provide space for future buildings and parking

 Appraised Value: \$6,100,000
 Sale Price/ Seller: \$5,845,000 from Commissioners of Public Works

 Source of Funds: Local funds (\$1,000,000) & Student Income Funds

 Project Number: H59-9651
 Environmental Study: Acceptable
 Approved by: JBRC on 6-22-93; CHE on 6-3-93
- (c) Agency: Mental Health
 Acreage: 1.25 acres
 Location: Colleton County
 County: Colleton
 Purpose: To construct a satellite office
 Appraised Value: \$20,000
 Sale Price/ Seller: \$15,012 from Glennie L. and Dorothy D. Fender

 Source of Funds: Local funds
 Project Number: J12-9547
 Environmental Study: Acceptable
 Approved by: JBRC on 6-22-93

Information relating to this matter has been retained in these files and is identified as Exhibit 2.

General Services: Easements (Blue Agenda #3)

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board approved the following easements in accord with Code Sections 1-11-80, 1-11-90 and 1-11-100:

06231

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 4

1. County Location: Lexington
From: Budget and Control Board
To: BellSouth Telecommunications, Inc.
Description/ Purpose: switching station on the north side of Columbia Circle, approximately 7 miles southwest of the City of Columbia
Consideration: \$16,750

2. County Location: Florence
From: Budget and Control Board
To: E. I. Dupont de Nemours & Co., Inc.
Description/ Purpose: construct a pipeline into the Great Pee Dee River for wastewater discharge
Consideration: \$200

Information relating to this matter has been retained in these files and is identified as Exhibit 3.

General Services: Procurement Audit, Workers' Comp. Commission (Blue #4)

The Board received as information a report that the Division of General Services, in accord with Code Section 11-35-1230, has audited the procurement activity of the Workers' Compensation Commission for which certification above the \$2,500 limit was not requested.

Information relating to this matter has been retained in these files and is identified as Exhibit 4.

Local Government: Grant Program Expenditures, January - March (Blue #5)

The Board received as information a Division of Local Government report that five grants totaling \$559,000 were approved during the January - March, 1993, period.

Information relating to this matter has been retained in these files and is identified as Exhibit 5.

06232

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 5

IRM: State Emergency Communications Network (Blue Agenda #6)

The Board was advised that, in 1989 following Hurricane Hugo, the Governor's Office analyzed the State's disaster preparedness capabilities including the telecommunications system. As a result of the evident need to improve the telecommunications network capabilities and backup, the "Partners in Preparedness" initiative between State government and telephone and power utilities established the South Carolina Emergency Communications Network at no cost to the State.

Though the State now has a substantial first-level of communications capability, an additional initiative was undertaken between the State and BellSouth to establish another level of backup emergency communications capability. At the Division's request, BellSouth requested a waiver of the AT&T Antitrust Consent Decree to allow the State to use BellSouth's Corporate Network in the event the State's primary and backup network facilities were damaged by a natural or man-made disaster.

After almost two years of consideration and additional impetus provided as a result of Hurricane Andrew, the US District Court ordered that BellSouth may allow the State of South Carolina to use its facilities in the event that:

1. The Governor of South Carolina has declared an official state of emergency in accordance with S.C. Code Ann. § 25-1-440 (a) (2) (1991);
2. The State has notified BellSouth that all other portions of the State's emergency communications network between specified locations have failed and that the State requires temporary access to Southern Bell's internal network for inter-LATA communications between those specified locations;
3. The use of Southern Bell's internal network by the State for inter-LATA communications shall cease when other facilities that are part of the State's telecommunications network become available to the State; and
4. Neither BellSouth nor any affiliate shall receive any compensation or payment for use of Southern Bell's internal network for inter-LATA communications by the State during such an emergency.

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 6

The Division advised that this is the first such waiver request made to the Court, and Judge Greene's decision should facilitate similar requests from other states for emergency communications.

The Board received as information the US District Court's decision to allow the State of South Carolina to use BellSouth's Corporate Network in the event that the State's primary communications network and backup communications network are damaged by natural or man-made disaster.

Information relating to this matter has been retained in these files and is identified as Exhibit 6.

Budget Division: Processing Fund Transfers (Regular Session #1)

Budget Division Director Charles A. Brooks appeared before the Board on this matter.

Provisos 129.13 and 1A.1 of the 1993-94 Appropriations Act make major changes to the traditional way in which budget transfers have been handled. The Division has consulted with staff of the Comptroller General's Office, the Senate Finance Committee, and the Ways and Means Committee and recommends approval of the following procedures relating to fund transfers:

Agencies may transfer appropriations as needed within and between programs provided that no other rule or law prohibits such transfer with the exceptions listed below:

1. Transfer between programs may not exceed 20% of a program budget.
2. Any transfer from Personal Service to other budget codes must be approved by the State Budget Division, with a yearly limit not to exceed \$50,000 or 1% of total Personal Service budget, whichever is greater. Requests to exceed this limit would require approval of the Budget and Control Board. This is a change from present policy established February 11, 1986, and is more in keeping with the current management situation and the intent of Proviso 129.13 as

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 7

revised. The Budget Division recommends that transfers of other operating funds to Personal Service be managed as needed between the State Budget Division and the agencies, as is currently the case, without setting a ceiling. Any significant amounts would need to show evidence of the agency's ability to annualize the amount involved, and such transfers would have to be fully justified and explained.

3. Appropriation transfers which may be necessitated by the Appropriations Act and/or reduction transfers which may be a result of Budget and Control Board actions will be managed and approved by the State Budget Division as is current practice.
4. Transfers involving cash only transactions will no longer be processed through the State Budget Division but should be sent directly to the Comptroller General's Office.
5. Agencies making transfers as outlined above, not receiving State Budget Division or other Board approval, are required to notify the Comptroller General's Office for proper accounting in whatever format that Office may stipulate and must notify, by copy, the State Budget Division. Notification to the State Budget Division of "cash only" transfers is not required.
6. The Budget Division will report monthly to all Board members and the Secretary to the Board on Personal Service transfers.

At the meeting, Mr. Brooks advised that this recommendation is made as a result of changes in the 1993-94 Appropriations Act which address restructuring and reform. He pointed out that the proposed procedures will relieve some of the pressure on agencies in transferring funds. He then recapped the recommendations as listed in the agenda materials.

Upon a motion by Mr. Patterson, seconded by Mr. Boan, the Board approved procedures for processing fund transfers in accord with Provisos 129.13 and 1A.1 of the 1993-94 Appropriations Act, as recommended by the Budget Division.

Information relating to this matter has been retained in these files and is identified as Exhibit 7.

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 8

State Treasurer: Bond Counsel Selection (Regular Session #2)

Board approval of the following bond counsel was requested:

- A. The Citadel: First of four projects being undertaken to replace four existing barracks facilities. Student and Faculty Housing Revenue Bonds or some other form of revenue bonds will be issued to fund the project. The estimated amount to be borrowed is \$12,000,000.

(1) Nelson, Mullins, Riley and Scarborough; and
(2) Sinkler & Boyd, P.A.

- B. SC Educational Television Commission: An amount up to \$7,000,000 to purchase equipment for ETV facility via third-party financing.

(1) McNair & Sanford, P.A.
(2) Sinkler & Boyd, P.A.

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board approved the selection of the following law firms to provide bond counsel services:

- A. The Citadel, for the first of four projects being undertaken to replace four existing barracks facility, Student and Faculty Housing Revenue Bonds or some other form of revenue bonds, estimated amount \$12,000,000: Nelson, Mullins, Riley and Scarborough; and
- B. SC Educational Television Commission, an amount up to \$7,000,000 for equipment for ETV facility via third-party financing: McNair & Sanford, P.A.

Information relating to this matter has been retained in these files and is identified as Exhibit 8.

General Services: Student Housing, Lander University (Regular Session #3)

Deputy Executive Director Richard Kelly appeared before the Board on this matter.

The Board was advised that regulation 19-445.2121 requires that leases which commit \$1,000,000 or more in a five-year period be approved by the Budget and Control Board and reviewed by the Joint Bond Review Committee.

06236

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 9

The Division advised that Lander University proposes to lease Buildings B and C of the Greenwood High Apartments at 835 South Main Street in Greenwood for use as student housing. Buildings B and C together contain 44 one-bedroom apartments, 18 two-bedroom apartments, and a central laundry facility.

The initial period of the lease will be for three years commencing on August 1, 1993, and ending on July 31, 1996, with an option to extend the lease for two additional years. The annual amount of the lease payment is \$230,000 based on \$285 per month for one-bedroom apartments and \$370 per month for two-bedroom apartments. The amount of the annual lease payment will remain constant for the initial period of the lease as well as any extension.

The University stressed the importance of finding one facility that could meet its needs (150-200 beds) and which will allow the University to provide some security and control of the student housing.

Property Management has worked with Lander in negotiating the lease. The University Board of Trustees has approved the University's entering into the lease, and the University has submitted a financial plan for the lease. Adequate funds are available for the lease and no state general funds will be required.

Lease terms and conditions were negotiated in accordance with the State standard lease document and Property Management is of the opinion that the terms are fair.

Upon a motion by Mr. Morris, seconded by Mr. Patterson, the Board authorized Lander University to enter into a three-year lease (August 1, 1993 through July 31, 1996) of Buildings B and C of the Greenwood High Apartments at 835 South Main Street in Greenwood, with an option to extend the lease for two additional years and with an annual lease payment of \$230,000.

Information relating to this matter has been retained in these files and is identified as Exhibit 9.

06237

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 10

General Services: Waiver of Environmental Audit, Manchester State Forest (R#4)

Deputy Executive Director Richard Kelly appeared before the Board on this matter.

The Division had advised in the agenda materials that the Norfolk Southern Railroad has agreed to pay all costs associated with a property exchange with the Forestry Commission whereby the Railroad will convey an abandoned right-of-way (33.1 acres; 100' x 3.1 miles) in exchange for a 3.48-acre easement for the construction of a connector line at Foxville Junction in Sumter County. All costs have been identified with the exception of the costs of the environmental study on the abandoned right-of-way to be acquired by the Forestry Commission.

The railroad has been in place since 1845 and runs through a portion of Manchester Forest. Due to the configuration of the property and the fact that it is surrounded by State Forest, the Forestry Commission asks that the Board waive the requirement for an environmental audit for this transaction. If the Board waives the requirement, all costs associated with the transaction will be known and the Commission and Norfolk Southern can enter into the final agreement.

The Division recommended approval of the request based on the unusual configuration of the parcel and the unlikelihood that it would be able to procure an accurate environmental study in that area.

At the meeting, Mr. Kelly advised that staff has checked back to 1975 and that it has found that there have been no derailments in that area since that time. He also advised that the State owns property on either side of the abandoned right-of-way and that no environmental problems are known to exist.

Upon a motion by Senator Drummond, seconded by Mr. Patterson, the Board waived the requirement for an environmental audit in the acquisition of a 100' x 3.1 mile abandoned railroad right-of-way through Manchester State Forest from Norfolk Southern Railroad by the Forestry Commission, as recommended by the Division of General Services.

06238

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 11

Information relating to this matter has been retained in these files and is identified as Exhibit 10.

Future Meeting

The Board agreed to meet at 10:00 a.m. on Wednesday, July 14, 1993, in the Governor's conference room in the State House.

Executive Session

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board agreed to consider the following items, which had been published previously, in executive session, whereupon Governor Campbell declared the meeting to be in executive session.

- | | | |
|----|------------------------|--|
| 1 | Youth Services | Legal Briefing (Alexander S. v. McLawhorn) |
| 2 | Coastal Council | Legal Briefings |
| 2A | Governor's Office | Legal Briefing |
| 3 | Human Resource Mgmt. | Personnel Settlement (Wil Lou Gray Opportunity School) |
| 3A | Human Resource Mgmt. | Compensation Matter |
| 4 | Insurance Services | Contractual Matter (Property Reinsurance) |
| 5 | Budget & Control Board | Legal Briefing (Resources Authority) |
| 6 | SLED; Tax Commission | Legal Briefing (Potential Litigation) |
| 7 | Executive Director | Personnel Appointment |

Report on Matters Discussed in Executive Session

Following the executive session, the meeting was opened, and the Board voted on the following items which had been discussed during executive session:

06239

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 12

(a) Youth Services: Legal Briefing (Alexander S. v. McLawhorn) (X#1)

The Board received as information a briefing on the Alexander v. McLawhorn, et al. case.

(b) Coastal Council: Legal Briefings (Executive Session #2)

Upon a motion by Mr. Morris, seconded by Mr. Patterson, the Board allocated \$74,168.85 of 1992-93 Civil Contingent Fund monies to the Coastal Council to deal with a series of pending litigation issues; and authorized the Division of Insurance Services to transfer such monies as are necessary under Proviso 14J.8 of the 1993-94 Appropriations Act to effect settlement of such issues.

(c) Governor's Office: Legal Briefing (Executive Session #2A)

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board allocated the balance of the 1992-93 Civil Contingent Fund monies to the Division of Insurance Services to deal with pending litigation issues involving the Governor's Office and the State Tax Commission.

(d) Human Resource Mgmt.: Personnel Settlement (Opportunity Sch.) (X3)

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board authorized the Wil Lou Gray Opportunity School to enter into a personnel settlement with seven present and former teachers.

(e) Human Resource Mgmt.: Compensation Matter (Executive Session #3A)

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board authorized a salary of \$76,261 for Ms. Flora Boyd as Director of the Department of Juvenile Justice.

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 13

(f) Insurance Services: Contractual Matter (Property Reinsurance) (X#4)

The Board received a briefing on the property reinsurance program with IRM Services; and, upon a motion by Senator Drummond, seconded by Mr. Patterson, approved a one-year negotiated program with IRM Services.

(g) SLED; Tax Commission: Legal Briefing (Potential Litigation) (X#6)

Upon a motion by Mr. Morris, seconded by Mr. Patterson, the Board authorized the State Law Enforcement Division and the Tax Commission to retain the services of the Gignilliat, Savitz and Bettis law firm at a rate of \$95 per hour, not to exceed \$5,000 per agency.

(h) Executive Director: Personnel Appointment (Executive #7)

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board named Mr. Boykin Rose as the Interim Director of Public Safety at a salary of \$80,000 per year.

[Secretary's Note: The Board had recessed at 11:35 a.m. so that Board members could attend the funeral of former City of Columbia Mayor Kirkman Finlay. The Board reconvened at 1:00 p.m. to consider the following item remaining on the executive session agenda. Senator Drummond excused himself from the meeting before the meeting was opened.]

(e) Budget and Control Board: Legal Briefing (Resources Authority) (X#5)

The Board received a legal briefing relating to the South Carolina Resources Authority.

Adjournment

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the meeting was adjourned at 2:00 p.m.

06241

Minutes of Budget and Control Board Meeting
June 29, 1993 – Page 14

[Secretary's Note: In compliance with Code §30-4-80, public notice of and the agenda for this meeting were posted on bulletin boards in the office of the Governor's Press Secretary and in the Press Room in the State House, near the Board Secretary's office in the Wade Hampton Building, and in the lobby of the Wade Hampton Office Building at 11:30 a.m. on Thursday, June 24, 1993.]

06242

EXHIBIT

JUN 29 1993

1

STATE BUDGET AND CONTROL BOARD

MEETING OF June 29, 1993

STATE BUDGET & CONTROL BOARD
BLUE AGENDA

ITEM NUMBER

1

AGENCY: Budget Division

SUBJECT: 1992-93 Authorized Personal Service Transfers Report, May

The Budget Division reports that the transfer of \$610,022 of personal service funds was approved during May (\$365,739 to other operating expenses and \$244,283 to equipment).

This brought the total of personal service funds approved for transfer during the fiscal year to \$7,250,850.

BOARD ACTION REQUESTED:

Receive as information a Budget Division report that the transfer of \$610,022 of personal service funds was approved during May to bring the total approved for transfer during the fiscal year to \$7,250,850.

ATTACHMENTS:

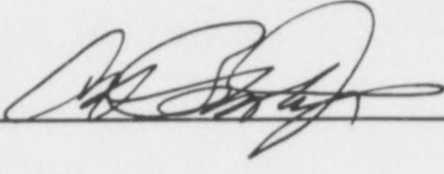
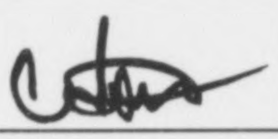
Agenda item worksheet and attachment

06243

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET (12/84)

Meeting Scheduled for: June 28, 1993

93-59
Regular Agenda

-
1. Submitted By:
(a) Agency: State Budget Division
(b) Authorized Official Signature: 
-
2. Subject:
FY 1992-93 Authorized Personal Service Transfer Report for the Month of May
-
3. Summary Background Information:
The State Budget Division's Report of Fiscal Year 1992-93 Authorized Personal Service Transfer Requests for May is attached.
-
4. What is Board asked to do?
Information only.
-
5. What is recommendation of Board Division involved?
Information only. 
-
6. Recommendation of other Division/agency (as required)?

(a) Authorized Signature: _____
(b) Division/Agency Name: _____
-
7. Supporting Documents:
(a) List Those Attached:
1. Authorized Personal Service Transfer Report for May.
(b) List Those Not Attached But Available From Submitter:

06244

STATE BUDGET DIVISION
ANALYSIS OF 1992-93 AUTHORIZED PERSONAL SERVICE
TRANSFER REQUESTS

<u>DATE</u>	<u>REQUEST NO.</u>	<u>AGENCY</u>	<u>SOURCE OF FUNDS</u>	<u>FROM PERSONAL SERVICE</u>	<u>TO OTHER OPERATING EXPENSES</u>	<u>EQUIPMENT</u>	
Total Authorized Transfers (117)				\$ 6,640,828	\$ 6,005,498	\$ 635,330	
<hr/>							
May <u>Authorized Transfers</u>							
(A)	04/01/93	-	A10 Special Svcs. of Both Houses	State	\$ 10,165	\$ 10,165	
(B)	05/25/93	-	A10 Special Svcs. of Both Houses	State	5,000	5,000	
(C)	05/03/93	-	A25 Legislative Info. System	State	25,000	-	\$ 25,000
(D)	05/14/93	-	A60 Jt. Leg. Comm. on Aging	State	844	844	
(E)	05/13/93	-	E08 Secretary of State	State	24,000	24,000	
(F)	05/27/93	-	E21 Prosecution Commission	State	7,500	2,500	5,000
(G)	05/05/93	-	E24 Adjutant General	State	7,200	-	7,200
(H)	05/03/93	-	F12 BCB-General Services	State	25,000	-	25,000
(I)	05/10/93	-	F14 BCB-Fire Marshal	State	22,000	14,000	8,000
(J)	05/24/93	-	H06 Higher Ed. Tuition Grants	State	2,749	1,199	1,550
(K)	05/05/93	-	H79 Archives & History	Federal	40,000	40,000	
(L)	05/10/93	-	J04 DHEC	State	33,732	33,732	
(M)	05/13/93	-	J04 DHEC	Other	114,355	63,685	50,670
(N)	05/17/93	-	L12 John de la Howe	State	22,639	14,000	8,639
(O)	05/27/93	-	L12 John de la Howe	Other	566	566	
(P)	05/25/93	-	L44 Commission on Women	State	800	800	
(Q)	05/03/93	-	P08 Land Resources	State	6,900	6,900	
(Q)	05/03/93	-	P08 Land Resources	Other	11,000	11,000	
(R)	05/03/93	-	P28 Parks, Recreation & Tourism	Other	14,821	14,821	
(S)	05/03/93	-	P28 Parks, Recreation & Tourism	Other	87,517	87,517	
(T)	05/19/93	-	R14 Patient's Compensation Fund	Other	390	390	
(U)	05/13/93	-	R28 Consumer Affairs	State	1,028	1,028	
(V)	05/10/93	-	R36 Department of Labor	Other	450	450	
(W)	05/05/93	-	R72 Barber Examiners Board	State	2,724	1,000	1,724
(X)	05/11/93	-	R72 Barber Examiners Board	State	1,457	1,457	

06245

STATE BUDGET DIVISION
ANALYSIS OF 1992-93 AUTHORIZED PERSONAL SERVICE
TRANSFER REQUESTS

<u>DATE</u>	<u>REQUEST NO.</u>	<u>AGENCY</u>	<u>SOURCE OF FUNDS</u>	<u>FROM PERSONAL SERVICE</u>	<u>TO OTHER OPERATING EXPENSES</u>	<u>EQUIPMENT</u>
(Y) 05/13/93	-	R99 Funeral Services Board	State	83	83	
(Z) 05/05/93	-	S04 Medical Examiners Board	State	352	352	
(AA) 05/25/93	-	S36 Real Estate Commission	State	22,750	22,750	
(BB) 05/25/93	-	S40 Residential Home Builders	State	7,500	7,500	
(CC) 05/27/93	-	S60 Procurement Review Board	State	11,500	-	11,500
- 05/04/93	93-55	P16 Department of Agriculture	State	100,000	-	100,000

Total Authorized Transfers
For May (31)

\$ 610,022 \$ 365,739 \$ 244,283

Total Authorized Transfers
Year-To-Date (148)

\$ 7,250,850 \$ 6,371,237 \$ 879,613

NOTE:

	<u>Current Month</u>	<u>Year-To-Date</u>
State Funds	\$ 340,923	\$6,399,730
Federal Funds	40,000	156,686
Other Funds	<u>229,099</u>	<u>694,434</u>
TOTAL FUNDS	<u>\$ 610,022</u>	<u>\$7,250,850</u>

Prepared
June 7, 1993

06246

EXHIBIT
JUN 29 1993
STATE BUDGET & CONTROL BOARD

EXHIBIT

JUN 29 1993

2

STATE BUDGET AND CONTROL BOARD
MEETING OF June 19, 1993

STATE BUDGET & CONTROL BOARD
BLUE AGENDA
ITEM NUMBER 2

AGENCY: General Services

SUBJECT: Property Acquisitions

The Division recommends approval of the following property acquisitions in accord with Code Section 1-11-65:

- (a) Agency: Highway Department
Acreage: 20 acres
Location: Anderson County
County: Anderson
Purpose: To construct a new maintenance facility
Appraised Value: \$300,000
Sale Price/Seller: \$230,000 from Carithers & Fretwell Real Estate Co.
Source of Funds: Gas tax revenue funds
Project Number: U12-9576
Environmental Study: Acceptable
Approved by: JBRC on 6-22-93
- (b) Agency: Trident Technical College
Acreage: 117.49 acres
Location: Rivers Avenue, Charleston
County: Charleston
Purpose: To provide space for future buildings and parking
Appraised Value: \$6,100,000
Sale Price/Seller: \$5,845,000 from Commissioners of Public Works
Source of Funds: Local funds (\$1,000,000) & Student Income Funds
Project Number: H59-9651
Environmental Study: Acceptable
Approved by: JBRC on 6-22-93 and CHE on 6-3-93
- (c) Agency: Mental Health
Acreage: 1.25 acres
Location: Colleton County
County: Colleton
Purpose: To construct a satellite office
Appraised Value: \$20,000
Sale Price/Seller: \$15,012 from Glennie L. and Dorothy D. Fender
Source of Funds: Local funds
Project Number: J12-9547
Environmental Study: Acceptable
Approved by: JBRC on 6-22-93

BOARD ACTION REQUESTED:

Approve the referenced property acquisitions.

ATTACHMENTS:

Code Section 1-11-65

06247

"Section 1-11-65. (A) All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State, must be approved by and recorded with the State Budget and Control Board. Upon approval of the transaction by the Budget and Control Board, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the board's approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The board may exempt a governmental body from the provisions of this subsection.

(B) All state agencies, departments, and institutions authorized by law to accept gifts of tangible personal property shall have executed by its governing body an acknowledgment of acceptance prior to transfer of the tangible personal property to the agency, department, or institution."

STATE BUDGET AND CONTROL BOARD

BLUE AGENDA

MEETING OF JUNE 29, 1993

ITEM NUMBER

AUTHORIZED OFFICIAL SIGNATURE

Richard L. Kelly

AGENCY: General Services

SUBJECT: Real Property Acquisition

The Division of General Services recommends approval of the following property transfers in accord with Code Section 1-11-65;

(a) Agency: Highway Department
Acreage: 20 acres
Location: Anderson County
County: Anderson
Purpose: To construct a new maintenance facility
Appraised Value: \$300,000
Price/Seller: \$230,000 from Carithers & Fretwell Real Estate Company
Source of Funds: Gas Tax Revenue Funds
Project Number: U12-9576
Environmental Study: Acceptable
Approved by: JBRC on 6-22-93

(b) Agency: Trident Technical College
Acreage: 117.49 acres
Location: Rivers Avenue, Charleston
County: Charleston
Purpose: To provide space for future buildings and parking
Appraised Value: \$6,100,000.00
Price/Seller: \$5,845,000.00 from Commissioners of Public Works
Source of Funds: Local Funds (\$1,000,000) and Student Income Funds
Project Number: H59-9651
Environmental Study: Acceptable
Approved by: JBRC on 6-22-93 and CHE on 6-3-93

(c) Agency: Mental Health
Acreage: 1.25 acres
Location: Colleton County
County: Colleton
Purpose: To construct a satellite office
Appraised Value: \$20,000.00
Price/Seller: \$15,012.00 from Glennie L. Fender and Dorothy D. Fender
Source of Funds: Local Funds
Project Number: J12-9547
Environmental Study: Acceptable
Approved by: JBRC on 6-22-93

EXHIBIT

JUN 29 1993

2

STATE BUDGET & CONTROL BOARD

BOARD ACTION REQUESTED:

Approval

ATTACHMENTS:

1. Code 1-11-65

06249

EXHIBIT

JUN 29 1993

3

STATE BUDGET AND CONTROL BOARD
MEETING OF June 29, 1993

STATE BUDGET & CONTROL BOARD
BLUE AGENDA

ITEM NUMBER 3

AGENCY: General Services

SUBJECT: Easements

The Division of General Services recommends approval of the following easements in accord with Code Sections 1-11-80, 1-11-90 and 1-11-100:

1. County Location: Lexington
From: Budget and Control Board
To: BellSouth Telecommunications, Inc.
Description/Purpose: switching station on the north side of
Columbia Circle, approximately 7 miles
southwest of the City of Columbia
Consideration: \$16,750
2. County Location: Florence
From: Budget and Control Board
To: E. I. Dupont de Nemours & Co., Inc.
Description/Purpose: construct a pipeline into the Great Pee Dee
River for wastewater discharge
Consideration: \$200

BOARD ACTION REQUESTED:

Approve the referenced easements as recommended by the Division of General Services.

ATTACHMENTS:

Referenced Code sections

06250

STATE BUDGET AND CONTROL BOARD

BLUE AGENDA

MEETING OF June 29, 1993

ITEM NUMBER

AUTHORIZED OFFICIAL SIGNATURE

Richard W. Kelly

AGENCY: General Services

SUBJECT: Easements

A. The Division of General Services recommends approval of the following easements in accord with Code Sections 1-11-80, 1-11-90, and 1-11-100;

1. County Location: Lexington County
From: SC Budget and Control Board
To: BellSouth Telecommunications, Inc.
Description/purpose: Switching Station
Consideration: \$16,750.00
2. County Location: Florence County
From: SC Budget and Control Board
To: Du Pont
Description/purpose: Construct a Pipeline
Consideration: \$200.00

B. The Division recommends that the Board concur and acquiesce in the granting of the following easements in accord with Code Section 10-1-130:

BOARD ACTION REQUESTED:

- A. Approve the referenced easements as recommended by the Division of General Services.
- B. Concur and acquiesce in the referenced easement.

ATTACHMENTS:

1. Code Sections

06251

"Section 1-11-65. (A) All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State, must be approved by and recorded with the State Budget and Control Board. Upon approval of the transaction by the Budget and Control Board, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the board's approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The board may exempt a governmental body from the provisions of this subsection.

(B) All state agencies, departments, and institutions authorized by law to accept gifts of tangible personal property shall have executed by its governing body an acknowledgment of acceptance prior to transfer of the tangible personal property to the agency, department, or institution."

§ 1-11-80. Board authorized to grant easements for public utilities on vacant State lands.

The State Budget and Control Board is authorized to grant easements and rights of way to any person for construction and maintenance of power lines, pipe lines, water and sewer lines and railroad facilities over, on or under such vacant lands or marshland as are owned by the State, upon payment of the reasonable value thereof.

HISTORY: 1962 Code § 1-357.1; 1963 (53) 177.

Cross references—

As to sale or donation of, or rights of way over, public lands, see SC Const. Art 3, § 31.

§ 1-11-90. Board authorized to grant rights of way over State marshlands for roads or power or pipe lines to State agencies or political subdivisions.

The State Budget and Control Board may grant to agencies or political subdivisions of the State, without compensation, rights of way through and over such marshlands as are owned by the State for the construction and maintenance of roads, streets and highways or power or pipe lines, if, in the judgment of the Budget and Control Board, the interests of the State will not be adversely affected thereby.

HISTORY: 1962 Code § 1-357.2; 1963 (53) 177.

Cross references—

As to sale or donation of, or rights of way over, public lands, see SC Const. Art 3, § 31.

§ 1-11-100. Execution of instruments conveying rights of way or easements over marshlands or vacant lands.

Deeds or other instruments conveying such rights of way or easements over such marshlands or vacant lands as are owned by the State shall be executed by the Governor in the name of the State, when authorized by resolution of the Budget and Control Board, duly recorded in the minutes and records of such Board and when duly approved by the office of the Attorney General; deeds or other instruments conveying such easements over property in the name of or under the control of State agencies, institutions, commissions or other bodies shall be executed by the majority of the governing body thereof, shall name both the State of South Carolina and the institution, agency, commission or governing body as grantors, and shall show the written approval of the majority of the members of the State Budget and Control Board.

HISTORY: 1962 Code § 1-357.3; 1963 (53) 177.

Cross References—

As to authority of State institutions and agencies to grant easements and rights of way, see § 10-1-130.

Research and Practice References—

63A Am Jur 2d, Public Lands § 115.

73B CJS, Public Lands §§ 178, 180.

17 Am Jur Legal Forms 2d, States, Territories, and Dependencies § 239:21 (agricultural lease-provision-reservation of right to grant easements).

§ 10-1-130. State institutions and agencies may grant easements and rights of way on consent of Budget and Control Board.

The trustees or governing bodies of State institutions and agencies may grant easements and rights of way over any property under their control, upon the concurrence and acquiescence of the State Budget and Control Board, whenever it appears that such easements will not materially impair the utility of the property or damage it and, when a consideration is paid therefor, any such amounts shall be placed in the State Treasury to the credit of the institution or agency having control of the property involved.

HISTORY: 1962 Code § 1-49.3; 1963 (53) 177.

Cross references—

As to composition, powers and duties of State Budget and Control Board generally, see Chapter 11 of Title 1.

As to the State Budget and Control Board, generally, see §§ 1-11-10 et seq.

As to execution of conveyances of such easements, see § 1-11-100.

§ 25-1-1660. Transfer of surplus armories to political subdivisions.

The State Budget and Control Board may transfer to a political subdivision ownership of a national guard armory being replaced and declared surplus if the political subdivision has donated real property for use as a site for a replacement armory.

HISTORY: 1985 Act No. 201, Part II, § 12, eff June 20, 1985.

STATE BUDGET & CONTROL BOARD

JUN 29 1993

3

EXHIBIT

06252

RIGHT-OF-WAY EASEMENT

THIS AGREEMENT, made this day of , 1993, between the BellSouth Telecommunications, Inc., hereinafter Grantee, a corporation organized and existing under the laws of the State of Georgia, having its principal place of business in Atlanta, Georgia, and The State of South Carolina by its State Budget and Control Board, hereinafter Grantor.

WHEREAS, the Grantor is the owner in fee simple of certain property in the County of Lexington, South Carolina described as follows:

"All that certain piece, parcel or tract of land, situate, lying and being on the North side of Columbia Circle in the County of Lexington, State of South Carolina, approximately seven (7) miles southwest of the City of Columbia. This being a portion of a tract deeded to The State of South Carolina by deed dated September 3, 1947, recorded in Deed Book 6-0, Pages 1,2 in the RMC office of Lexington County, Lexington, South Carolina" and contiguous to a right-of-way easement granted by Grantor to Grantee on April 29, 1987 and recorded in the Lexington County RMC office in Deed Book 909 Page 162.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That the Grantor, for and in consideration of the sum of SIXTEEN THOUSAND SEVEN HUNDRED FIFTY (\$16,750.00) DOLLARS and paid to Grantor by Grantee, the receipt of which is hereby acknowledged, does hereby grant and release unto Grantee, its licensees, agents, successors, assigns, and allied and associated companies, an easement and right-of-way upon, over, and under a strip of land of some 8,375 square feet, across the above described lands in the County of Lexington, South Carolina to construct, operate, maintain, add or, remove such lines or systems of communications or related services as the Grantee may require, consisting of:

- 1) poles, guys, anchors, aerial cables and wires;
- 2) buried cables and wires, cable terminals; markers, splicing boxes and pedestals;
- 3) conduits, manholes, markers, underground cables and wires.
- 4) other amplifiers, boxes appurtenances or devices; and
- 5) telecommunication equipment, enclosure or building

06253

together with the right of ingress and egress to said premises at all times. Said strip of land being more fully described on the attached plat commissioned by Grantee and said plat is expressly made a part hereof by reference thereto and is designated as Exhibit A.

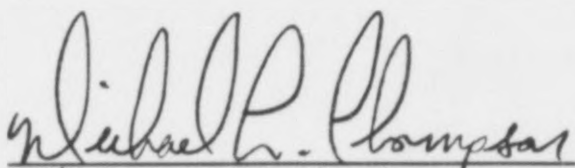
The following rights are also granted:

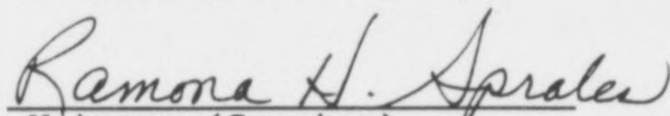
- 1) Grantee may allow any other person or company to attach wires or lay cable or conduit within the right-of-way for communications or electric power transmission or distribution;
- 2) To clear the land and keep it cleared of all trees, undergrowth or other obstructions within the easement area;
- 3) To trim and cut and keep trimmed and cut all dead, weak leaning or dangerous trees or limbs outside of the easement area which might interfere with or fall upon the lines or systems of communications or power transmission or distribution.

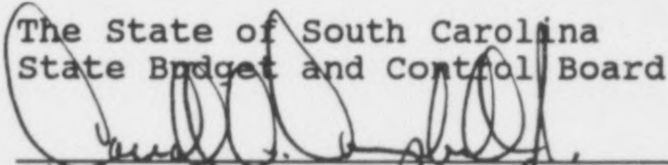
Grantee shall landscape and maintain landscaping according to a plan developed mutually with Grantor.

This grant and easement shall at all times be deemed to be, and shall be, a continuing covenant running with the land, and shall be binding upon and in favor of the successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed on the day of , 1993.

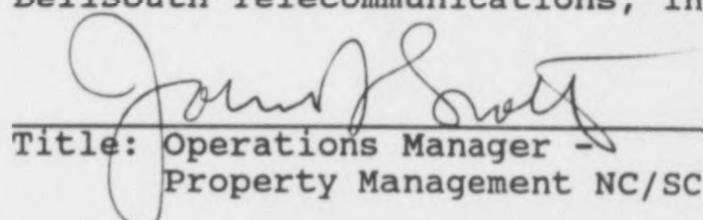

Witness (Grantor)


Witness (Grantor)

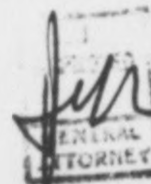
The State of South Carolina
State Budget and Control Board

Title: Carroll A. Campbell, Jr.
Chairman

BellSouth Telecommunications, Inc.

Witness (Grantee)


Title: Operations Manager -
Property Management NC/SC

Witness (Grantee)



06254

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Personally appeared before me the undersigned witness
and made oath that (s)he saw the within-named Grantor(s) sign,
and as the Grantor's(s') act and deed deliver the within easement
and that (s)he, along with the other witness subscribed above,
witnessed the due execution thereof.

Michael R. Thompson

Sworn to before me this 14th
day of July, 1993

Jay A. Holley
Notary Public
My Commission Expires: 3-21-95

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Personally appeared before me the undersigned witness
and made oath that (s)he saw the within-named Grantee sign, and
as the Grantee's act and deed deliver the within easement and
that (s)he, along with the other witness subscribed above,
witnessed the due execution thereof.

Sworn to before me this _____
day of _____, 1993

Notary Public
My Commission Expires:

06255

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

EASEMENT

THIS EASEMENT, made and entered into this _____ day of _____, 1993, by and between the State of South Carolina, Budget and Control Board, as Grantor (hereinafter "State"), and Du Pont as Grantee (hereinafter "GRANTEE").

WITNESSETH

WHEREAS, GRANTEE is a synthetic film manufacturer, and Du Pont's mailing address is U. S. Highway 301 North, Florence, SC 29501; and

WHEREAS, Du Pont proposes to construct a pipeline into the Great Pee Dee River for wastewater discharge in FLORENCE, South Carolina. The wastewater discharge pipe and easement are more particularly shown and delineated on a drawing entitled, E. I. Du Pont DE NEMOURS & CO., INC., which is attached hereto and incorporated herein.

WHEREAS, pursuant to 1-11-80 of the South Carolina Code of Laws, 1976, as amended, the STATE is empowered to grant certain rights of-way or easements through and over riverbeds and marshlands for construction, operation and maintenance of power lines, pipe lines, water and sewer lines over, on or under such vacant lands or marshlands as are owned by the STATE; and

WHEREAS, Du Pont is desirous of obtaining the hereinafter described easement through and over riverbeds and marshlands in FLORENCE County, and the STATE considers the granting of such an easement to be in the public interest.

NOW, THEREFORE, the STATE as Grantor, in consideration of the sum of TWO HUNDRED DOLLARS (\$200.00) DOLLAR(S), receipt of which is hereby acknowledged, does hereby grant, remise, and release unto Du Pont its successors and assigns, a right-of-way easement in, to, upon and over the below described portion of riverbed and marshland; such

06256

riverbed and marshland situate in FLORENCE County and lying below the mean high water line.

This easement of right-of-way shall be used solely for the purposes incidental with the installation, operation and maintenance of an outfall pipeline. The easement area is more particularly described as follows:

Beginning at a point in the Great Pee Dee River, said point being S 63 Degrees, 53 Minutes, 11 Seconds East, 11973.42 linear feet from USGS control mark 'TT111DS' and being South 52 Degrees, 29 Minutes, 41 Seconds East, 621.35 linear feet from station 6+40.35 on pipeline. Thence running along centerline of easement North 52 Degrees, 29 Minutes, 41 Seconds West, 40.00 linear feet to the riser on a 36 inch diameter pipeline (Station 0+59); thence North 52 Degrees, 29 Minutes, 41 Seconds West a distance of 168.00 linear feet (Station 2+27.00) to a point on the bank of the river. Said easement having a width of 40 linear feet, 20 feet each side of the described centerline and a length of 208.00 linear feet.

The easement area is more particularly shown and delineated on a drawing entitled E. I. DU PONT DE NEMOURS & CO., INC., which is attached hereto and incorporated herein attached hereto and incorporated herein.

This easement of right-of-way is subject to all easements and rights-of-way of record or which may be revealed by inspection of the property and extends only to the STATE's prima facie ownership.

Du Pont hereby agrees and covenants with the STATE that Du Pont, its successors and assigns, shall not block or obstruct navigable waters or cause unreasonable adverse impact on fish, wildlife, or water quality in its use of the easement area. Du Pont shall use the easement area solely for the purpose incidental with the construction, operation, and maintenance of said pipeline and shall maintain such easement area and pipeline in good condition.

Du Pont further agrees and covenants that Du Pont shall indemnify and hold harmless the STATE from and against any and all liabilities, claims, causes of action and expenses including, but not limited to, reasonable costs of attorney fees, resulting from bodily injury or death to any person or persons or damage to any property at any time that arises from or is

incident to the construction, operation, maintenance, or use of the easement granted herein.

In the event of major maintenance, after construction, affecting the bed of the waterway, the South Carolina Coastal Council and the South Carolina Water Resources Commission shall be notified in writing prior thereto.

Du Pont will comply with and be bound by any and all applicable State statutes, regulations, and terms and conditions of any permits or agreements concerning this project and any and all lands and waters involved therewith.

This Easement may be terminated by the STATE, in its discretion and such interests as the STATE may have shall revert to the STATE if Du Pont, its successors and assigns: (1) quits and abandons all use of such pipeline in which case this easement of right-of-way shall terminate thirty (30) days after the date of such abandonment; or (2) continues an uncorrected violation or breach of any of the terms and conditions herein.

It is further understood and agreed that this easement is not to be construed as an easement granted to the exclusion of the STATE or to others later granted a similar right. This easement is subject to all easements, permits, restriction and covenants of record, or of plats of record, or which may be revealed upon inspection of the property.

06258

IN WITNESS WHEREOF, this instrument is being executed in accordance with the
action of the South Carolina Budget and Control Board at its meeting held on the
29th day of June, 199³.

WITNESSES:

Michael R. Thompson

Ramona S. Spoles

STATE OF SOUTH CAROLINA
BUDGET & CONTROL BOARD

BY:

Carroll A. Campbell, Jr.

Governor Carroll A. Campbell, Jr.
Chairman, Budget and Control Board

WITNESSES:

A. F. Stein

Joseph R. Benni

E. I. DU PONT de NEMOURS

BY:

Fred B. Pack

Environmental Manager
TITLE

Approved
OFFICE OF THE ATTORNEY GENERAL

BY:

Kenneth P. Woodington
Kenneth P. Woodington

DATE: 1/29/93

06259

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

PERSONALLY appeared before me Michael L. Thompson and made oath that he/she saw the within named State of South Carolina, Budget and Control Board, by its Chairman, Governor Carroll A. Campbell, Jr., sign, seal, and as its act and deed deliver the within written Easement, and that he/she, along with Ramona H. Spoler, witnessed the execution thereof.

Michael L. Thompson

SWORN to before me this 14th

day of July, 1992.

Jaye A. Holley (L.S.)
Notary Public for South Carolina

My Commission expires: 3-21-95

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

PERSONALLY appeared before me A. F. Steinkruger and made oath that he/she saw the within named E. I. du Pont de Nemours, by Fred B. Pack, its Env. Affairs Manager, sign, seal, and as its act and deed deliver the within written Easement, and that he/she, along with J. A. Beni, witnessed the execution thereof.

Linda S. Eagerton

SWORN to before me this 26th

day of May, 1992: 1993

Linda S. Eagerton (L.S.)
Notary Public for South Carolina

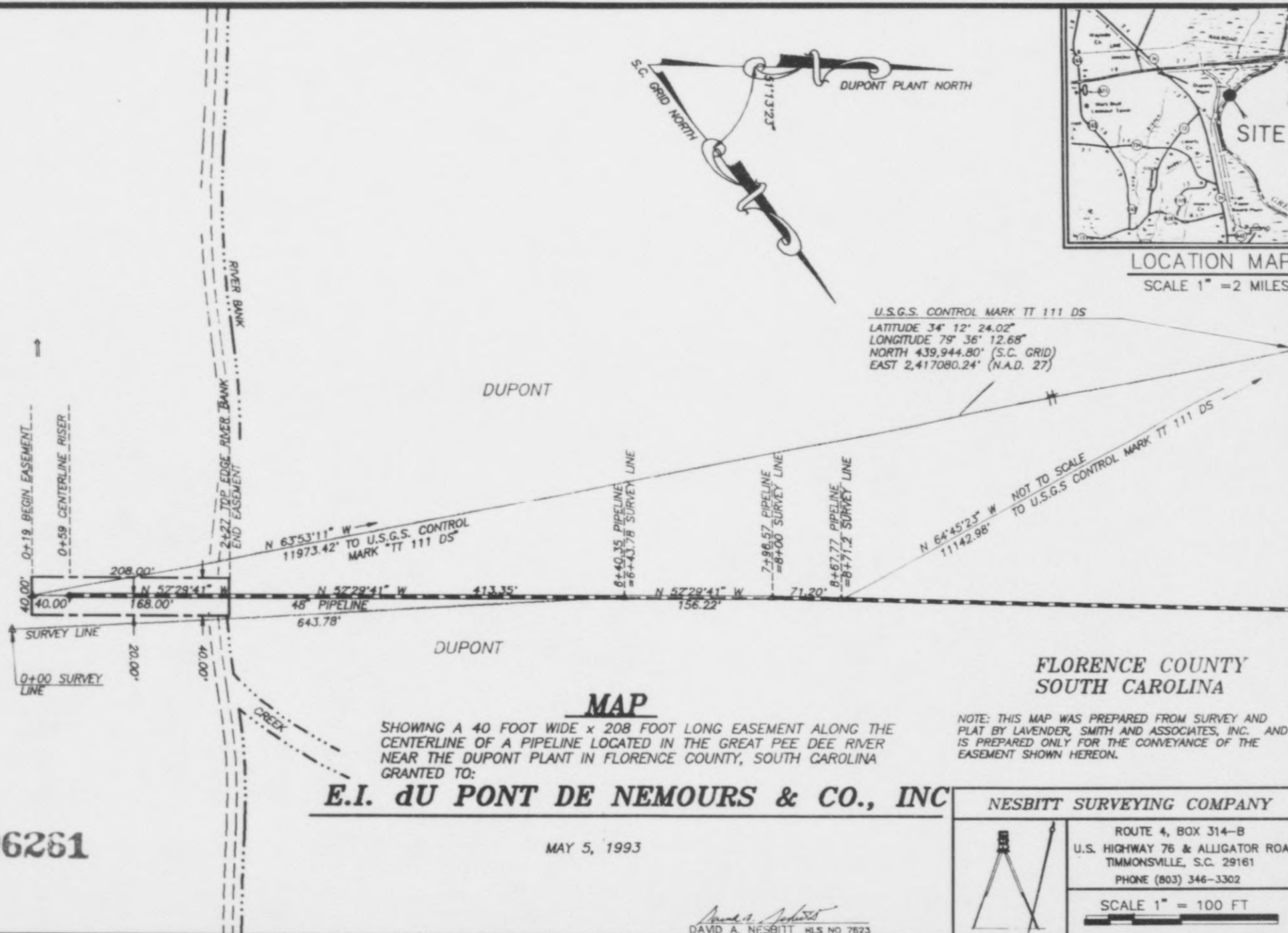
My Commission Expires: 2-19-96

06260

WASH JAMES, EST

GREAT PEE DEE RIVER

06261



RIGHT-OF-WAY EASEMENT

THIS AGREEMENT, made this day of , 1993, between the BellSouth Telecommunications, Inc., hereinafter Grantee, a corporation organized and existing under the laws of the State of Georgia, having its principal place of business in Atlanta, Georgia, and The State of South Carolina by its State Budget and Control Board, hereinafter Grantor.

WHEREAS, the Grantor is the owner in fee simple of certain property in the County of Lexington, South Carolina described as follows:

"All that certain piece, parcel or tract of land, situate, lying and being on the North side of Columbia Circle in the County of Lexington, State of South Carolina, approximately seven (7) miles southwest of the City of Columbia. This being a portion of a tract deeded to The State of South Carolina by deed dated September 3, 1947, recorded in Deed Book 6-0, Pages 1,2 in the RMC office of Lexington County, Lexington, South Carolina" and contiguous to a right-of-way easement granted by Grantor to Grantee on April 29, 1987 and recorded in the Lexington County RMC office in Deed Book 909 Page 162.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That the Grantor, for and in consideration of the sum of SIXTEEN THOUSAND SEVEN HUNDRED FIFTY (\$16,750.00) DOLLARS and paid to Grantor by Grantee, the receipt of which is hereby acknowledged, does hereby grant and release unto Grantee, its licensees, agents, successors, assigns, and allied and associated companies, an easement and right-of-way upon, over, and under a strip of land of some 8,375 square feet, across the above described lands in the County of Lexington, South Carolina to construct, operate, maintain, add or, remove such lines or systems of communications or related services as the Grantee may require, consisting of:

- 1) poles, guys, anchors, aerial cables and wires;
- 2) buried cables and wires, cable terminals; markers, splicing boxes and pedestals;
- 3) conduits, manholes, markers, underground cables and wires.
- 4) other amplifiers, boxes appurtenances or devices; and
- 5) telecommunication equipment, enclosure or building

C6262

together with the right of ingress and egress to said premises at all times. Said strip of land being more fully described on the attached plat commissioned by Grantee and said plat is expressly made a part hereof by reference thereto and is designated as Exhibit A.

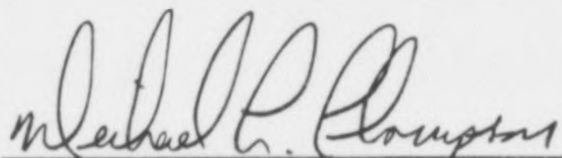
The following rights are also granted:

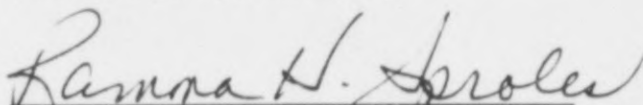
- 1) Grantee may allow any other person or company to attach wires or lay cable or conduit within the right-of-way for communications or electric power transmission or distribution;
- 2) To clear the land and keep it cleared of all trees, undergrowth or other obstructions within the easement area;
- 3) To trim and cut and keep trimmed and cut all dead, weak leaning or dangerous trees or limbs outside of the easement area which might interfere with or fall upon the lines or systems of communications or power transmission or distribution.

Grantee shall landscape and maintain landscaping according to a plan developed mutually with Grantor.

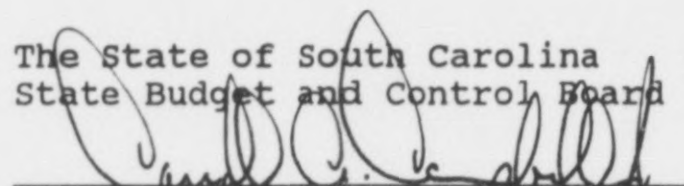
This grant and easement shall at all times be deemed to be, and shall be, a continuing covenant running with the land, and shall be binding upon and in favor of the successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed on the day of , 1993.


Witness (Grantor)

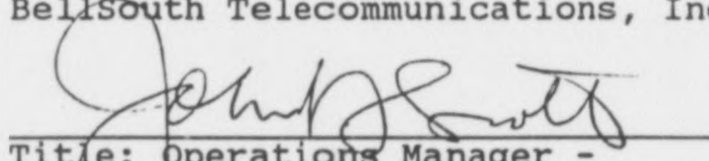

Witness (Grantor)

The State of South Carolina
State Budget and Control Board

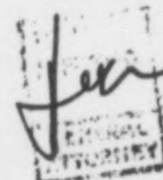

Title: Carroll A. Campbell, Jr.
Chairman

BellSouth Telecommunications, Inc.

Witness (Grantee)


Title: Operations Manager -
Property Management NC/SC

Witness (Grantee)



06263

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Personally appeared before me the undersigned witness
and made oath that (s)he saw the within-named Grantor(s) sign,
and as the Grantor's(s') act and deed deliver the within easement
and that (s)he, along with the other witness subscribed above,
witnessed the due execution thereof.

Michael R. Thompson

Sworn to before me this 14th
day of July, 1993

Jay A. Holley
Notary Public
My Commission Expires: 3-21-95

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Personally appeared before me the undersigned witness
and made oath that (s)he saw the within-named Grantee sign, and
as the Grantee's act and deed deliver the within easement and
that (s)he, along with the other witness subscribed above,
witnessed the due execution thereof.

Sworn to before me this _____
day of _____, 1993

Notary Public
My Commission Expires:

06264

"Section 1-11-65. (A) All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State, must be approved by and recorded with the State Budget and Control Board. Upon approval of the transaction by the Budget and Control Board, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the board's approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The board may exempt a governmental body from the provisions of this subsection.

(B) All state agencies, departments, and institutions authorized by law to accept gifts of tangible personal property shall have executed by its governing body an acknowledgment of acceptance prior to transfer of the tangible personal property to the agency, department, or institution."

§ 1-11-80. Board authorized to grant easements for public utilities on vacant State lands.

The State Budget and Control Board is authorized to grant easements and rights of way to any person for construction and maintenance of power lines, pipe lines, water and sewer lines and railroad facilities over, on or under such vacant lands or marshland as are owned by the State, upon payment of the reasonable value thereof.

HISTORY: 1962 Code § 1-357.1; 1963 (53) 177.

Cross references—

As to sale or donation of, or rights of way over, public lands, see SC Const. Art 3, § 31.

§ 1-11-90. Board authorized to grant rights of way over State marshlands for roads or power or pipe lines to State agencies or political subdivisions.

The State Budget and Control Board may grant to agencies or political subdivisions of the State, without compensation, rights of way through and over such marshlands as are owned by the State for the construction and maintenance of roads, streets and highways or power or pipe lines, if, in the judgment of the Budget and Control Board, the interests of the State will not be adversely affected thereby.

HISTORY: 1962 Code § 1-357.2; 1963 (53) 177.

Cross references—

As to sale or donation of, or rights of way over, public lands, see SC Const. Art 3, § 31.

06265

§ 1-11-100. Execution of instruments conveying rights of way or easements over marshlands or vacant lands.

Deeds or other instruments conveying such rights of way or easements over such marshlands or vacant lands as are owned by the State shall be executed by the Governor in the name of the State, when authorized by resolution of the Budget and Control Board, duly recorded in the minutes and records of such Board and when duly approved by the office of the Attorney General; deeds or other instruments conveying such easements over property in the name of or under the control of State agencies, institutions, commissions or other bodies shall be executed by the majority of the governing body thereof, shall name both the State of South Carolina and the institution, agency, commission or governing body as grantors, and shall show the written approval of the majority of the members of the State Budget and Control Board.

HISTORY: 1962 Code § 1-357.3; 1963 (53) 177.

Cross References—

As to authority of State institutions and agencies to grant easements and rights of way, see § 10-1-130.

Research and Practice References—

63A Am Jur 2d, Public Lands § 115.

73B CJS, Public Lands §§ 178, 180.

17 Am Jur Legal Forms 2d, States, Territories, and Dependencies § 239:21 (agricultural lease-provision-reservation of right to grant easements).

§ 10-1-130. State institutions and agencies may grant easements and rights of way on consent of Budget and Control Board.

The trustees or governing bodies of State institutions and agencies may grant easements and rights of way over any property under their control, upon the concurrence and acquiescence of the State Budget and Control Board, whenever it appears that such easements will not materially impair the utility of the property or damage it and, when a consideration is paid therefor, any such amounts shall be placed in the State Treasury to the credit of the institution or agency having control of the property involved.

HISTORY: 1962 Code § 1-49.3; 1963 (53) 177.

Cross references—

As to composition, powers and duties of State Budget and Control Board generally, see Chapter 11 of Title 1.

As to the State Budget and Control Board, generally, see §§ 1-11-10 et seq.

As to execution of conveyances of such easements, see § 1-11-100.

§ 25-1-1660. Transfer of surplus armories to political subdivisions.

The State Budget and Control Board may transfer to a political subdivision ownership of a national guard armory being replaced and declared surplus if the political subdivision has donated real property for use as a site for a replacement armory.

HISTORY: 1985 Act No. 201, Part II, § 12, eff June 20, 1985.

RIGHT-OF-WAY EASEMENT

THIS AGREEMENT, made this day of , 1993, between the BellSouth Telecommunications, Inc., hereinafter Grantee, a corporation organized and existing under the laws of the State of Georgia, having its principal place of business in Atlanta, Georgia, and The State of South Carolina by its State Budget and Control Board, hereinafter Grantor.

WHEREAS, the Grantor is the owner in fee simple of certain property in the County of Lexington, South Carolina described as follows:

"All that certain piece, parcel or tract of land, situate, lying and being on the North side of Columbia Circle in the County of Lexington, State of South Carolina, approximately seven (7) miles southwest of the City of Columbia. This being a portion of a tract deeded to The State of South Carolina by deed dated September 3, 1947, recorded in Deed Book 6-0, Pages 1,2 in the RMC office of Lexington County, Lexington, South Carolina" and contiguous to a right-of-way easement granted by Grantor to Grantee on April 29, 1987 and recorded in the Lexington County RMC office in Deed Book 909 Page 162.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That the Grantor, for and in consideration of the sum of SIXTEEN THOUSAND SEVEN HUNDRED FIFTY (\$16,750.00) DOLLARS and paid to Grantor by Grantee, the receipt of which is hereby acknowledged, does hereby grant and release unto Grantee, its licensees, agents, successors, assigns, and allied and associated companies, an easement and right-of-way upon, over, and under a strip of land of some 8,375 square feet, across the above described lands in the County of Lexington, South Carolina to construct, operate, maintain, add or, remove such lines or systems of communications or related services as the Grantee may require, consisting of:

- 1) poles, guys, anchors, aerial cables and wires;
- 2) buried cables and wires, cable terminals; markers, splicing boxes and pedestals;
- 3) conduits, manholes, markers, underground cables and wires.
- 4) other amplifiers, boxes appurtenances or devices; and
- 5) telecommunication equipment, enclosure or building

06266

together with the right of ingress and egress to said premises at all times. Said strip of land being more fully described on the attached plat commissioned by Grantee and said plat is expressly made a part hereof by reference thereto and is designated as Exhibit A.

The following rights are also granted:

- 1) Grantee may allow any other person or company to attach wires or lay cable or conduit within the right-of-way for communications or electric power transmission or distribution;
- 2) To clear the land and keep it cleared of all trees, undergrowth or other obstructions within the easement area;
- 3) To trim and cut and keep trimmed and cut all dead, weak leaning or dangerous trees or limbs outside of the easement area which might interfere with or fall upon the lines or systems of communications or power transmission or distribution.

Grantee shall landscape and maintain landscaping according to a plan developed mutually with Grantor.

This grant and easement shall at all times be deemed to be, and shall be, a continuing covenant running with the land, and shall be binding upon and in favor of the successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed on the day of , 1993.

The State of South Carolina
State Budget and Control Board

Witness (Grantor)

Title: Carroll A. Campbell, Jr.
Chairman

Witness (Grantor)

BellSouth Telecommunications, Inc.

Witness (Grantee)

Title: Operations Manager -
Property Management NC/SC

Witness (Grantee)



06267

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Personally appeared before me the undersigned witness
and made oath that (s)he saw the within-named Grantor(s) sign,
and as the Grantor's(s') act and deed deliver the within easement
and that (s)he, along with the other witness subscribed above,
witnessed the due execution thereof.

Sworn to before me this _____
day of _____, 1993

Notary Public
My Commission Expires:

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Personally appeared before me the undersigned witness
and made oath that (s)he saw the within-named Grantee sign, and
as the Grantee's act and deed deliver the within easement and
that (s)he, along with the other witness subscribed above,
witnessed the due execution thereof.

Sworn to before me this _____
day of _____, 1993

Notary Public
My Commission Expires:

06268

"Section 1-11-65. (A) All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State, must be approved by and recorded with the State Budget and Control Board. Upon approval of the transaction by the Budget and Control Board, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the board's approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The board may exempt a governmental body from the provisions of this subsection.

(B) All state agencies, departments, and institutions authorized by law to accept gifts of tangible personal property shall have executed by its governing body an acknowledgment of acceptance prior to transfer of the tangible personal property to the agency, department, or institution."

§ 1-11-80. Board authorized to grant easements for public utilities on vacant State lands.

The State Budget and Control Board is authorized to grant easements and rights of way to any person for construction and maintenance of power lines, pipe lines, water and sewer lines and railroad facilities over, on or under such vacant lands or marshland as are owned by the State, upon payment of the reasonable value thereof.

HISTORY: 1962 Code § 1-357.1; 1963 (53) 177.

Cross references—

As to sale or donation of, or rights of way over, public lands, see SC Const. Art 3, § 31.

§ 1-11-90. Board authorized to grant rights of way over State marshlands for roads or power or pipe lines to State agencies or political subdivisions.

The State Budget and Control Board may grant to agencies or political subdivisions of the State, without compensation, rights of way through and over such marshlands as are owned by the State for the construction and maintenance of roads, streets and highways or power or pipe lines, if, in the judgment of the Budget and Control Board, the interests of the State will not be adversely affected thereby.

HISTORY: 1962 Code § 1-357.2; 1963 (53) 177.

Cross references—

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§ 1-11-100. Execution of instruments conveying rights of way or easements over marshlands or vacant lands.

Deeds or other instruments conveying such rights of way or easements over such marshlands or vacant lands as are owned by the State shall be executed by the Governor in the name of the State, when authorized by resolution of the Budget and Control Board, duly recorded in the minutes and records of such Board and when duly approved by the office of the Attorney General; deeds or other instruments conveying such easements over property in the name of or under the control of State agencies, institutions, commissions or other bodies shall be executed by the majority of the governing body thereof, shall name both the State of South Carolina and the institution, agency, commission or governing body as grantors, and shall show the written approval of the majority of the members of the State Budget and Control Board.

HISTORY: 1962 Code § 1-357.3; 1963 (53) 177.

Cross References—

As to authority of State institutions and agencies to grant easements and rights of way, see § 10-1-130.

Research and Practice References—

63A Am Jur 2d, Public Lands § 115.

73B CJS, Public Lands §§ 178, 180.

17 Am Jur Legal Forms 2d, States, Territories, and Dependencies § 239:21 (agricultural lease-provision-reservation of right to grant easements).

§ 10-1-130. State institutions and agencies may grant easements and rights of way on consent of Budget and Control Board.

The trustees or governing bodies of State institutions and agencies may grant easements and rights of way over any property under their control, upon the concurrence and acquiescence of the State Budget and Control Board, whenever it appears that such easements will not materially impair the utility of the property or damage it and, when a consideration is paid therefor, any such amounts shall be placed in the State Treasury to the credit of the institution or agency having control of the property involved.

HISTORY: 1962 Code § 1-49.3; 1963 (53) 177.

Cross references—

As to composition, powers and duties of State Budget and Control Board generally, see Chapter 11 of Title 1.

As to the State Budget and Control Board, generally, see §§ 1-11-10 et seq.

As to execution of conveyances of such easements, see § 1-11-100.

§ 25-1-1660. Transfer of surplus armories to political subdivisions.

The State Budget and Control Board may transfer to a political subdivision ownership of a national guard armory being replaced and declared surplus if the political subdivision has donated real property for use as a site for a replacement armory.

HISTORY: 1985 Act No. 201, Part II, § 12, eff June 20, 1985.

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

EASEMENT

THIS EASEMENT, made and entered into this _____ day of _____, 1993, by and between the State of South Carolina, Budget and Control Board, as Grantor (hereinafter "State"), and Du Pont as Grantee (hereinafter "GRANTEE").

WITNESSETH

WHEREAS, GRANTEE is a synthetic film manufacturer, and Du Pont's mailing address is U. S. Highway 301 North, Florence, SC 29501; and

WHEREAS, Du Pont proposes to construct a pipeline into the Great Pee Dee River for wastewater discharge in FLORENCE, South Carolina. The wastewater discharge pipe and easement are more particularly shown and delineated on a drawing entitled, E. I. Du Pont DE NEMOURS & CO., INC., which is attached hereto and incorporated herein.

WHEREAS, pursuant to 1-11-80 of the South Carolina Code of Laws, 1976, as amended, the STATE is empowered to grant certain rights-of-way or easements through and over riverbeds and marshlands for construction, operation, and maintenance of power lines, pipe lines, water and sewer lines over, on or under such vacant lands or marshlands as are owned by the STATE; and

WHEREAS, Du Pont is desirous of obtaining the hereinafter described easement through and over riverbeds and marshlands in FLORENCE County, and the STATE considers the granting of such an easement to be in the public interest.

NOW, THEREFORE, the STATE as Grantor, in consideration of the sum of TWO HUNDRED DOLLARS (\$200.00) DOLLAR(S), receipt of which is hereby acknowledged, does hereby grant, remise, and release unto Du Pont its successors and assigns, a right-of-way easement in, to, upon and over the below described portion of riverbed and marshland; such

06270

riverbed and marshland situate in FLORENCE County and lying below the mean high water line.

This easement of right-of-way shall be used solely for the purposes incidental with the installation, operation and maintenance of an outfall pipeline. The easement area is more particularly described as follows:

Beginning at a point in the Great Pee Dee River, said point being S 63 Degrees, 53 Minutes, 11 Seconds East, 11973.42 linear feet from USGS control mark 'TT111DS' and being South 52 Degrees, 29 Minutes, 41 Seconds East, 621.35 linear feet from station 6+40.35 on pipeline. Thence running along centerline of easement North 52 Degrees, 29 Minutes, 41 Seconds West, 40.00 linear feet to the riser on a 36 inch diameter pipeline (Station 0+59); thence North 52 Degrees, 29 Minutes, 41 Seconds West a distance of 168.00 linear feet (Station 2+27.00) to a point on the bank of the river. Said easement having a width of 40 linear feet, 20 feet each side of the described centerline and a length of 208.00 linear feet.

The easement area is more particularly shown and delineated on a drawing entitled E. I. DU PONT DE NEMOURS & CO., INC., which is attached hereto and incorporated herein attached hereto and incorporated herein.

This easement of right-of-way is subject to all easements and rights-of-way of record or which may be revealed by inspection of the property and extends only to the STATE's prima facie ownership.

Du Pont hereby agrees and covenants with the STATE that Du Pont, its successors and assigns, shall not block or obstruct navigable waters or cause unreasonable adverse impact on fish, wildlife, or water quality in its use of the easement area. Du Pont shall use the easement area solely for the purpose incidental with the construction, operation, and maintenance of said pipeline and shall maintain such easement area and pipeline in good condition.

Du Pont further agrees and covenants that Du Pont shall indemnify and hold harmless the STATE from and against any and all liabilities, claims, causes of action and expenses including, but not limited to, reasonable costs of attorney fees, resulting from bodily injury or death to any person or persons or damage to any property at any time that arises from or is

06271

incident to the construction, operation, maintenance, or use of the easement granted herein.

In the event of major maintenance, after construction, affecting the bed of the waterway, the South Carolina Coastal Council and the South Carolina Water Resources Commission shall be notified in writing prior thereto.

Du Pont will comply with and be bound by any and all applicable State statutes, regulations, and terms and conditions of any permits or agreements concerning this project and any and all lands and waters involved therewith.

This Easement may be terminated by the STATE, in its discretion and such interests as the STATE may have shall revert to the STATE if Du Pont, its successors and assigns: (1) quits and abandons all use of such pipeline in which case this easement of right-of-way shall terminate thirty (30) days after the date of such abandonment; or (2) continues an uncorrected violation or breach of any of the terms and conditions herein.

It is further understood and agreed that this easement is not to be construed as an easement granted to the exclusion of the STATE or to others later granted a similar right. This easement is subject to all easements, permits, restriction and covenants of record, or of plats of record, or which may be revealed upon inspection of the property.

06272

IN WITNESS WHEREOF, this instrument is being executed in accordance with the
action of the South Carolina Budget and Control Board at its meeting held on the
29th day of June, 199~~2~~³.

WITNESSES:

Michael E. Douglas
Remona H. Spoles

STATE OF SOUTH CAROLINA
BUDGET & CONTROL BOARD

BY:

Carroll A. Campbell, Jr.
Governor Carroll A. Campbell, Jr.
Chairman, Budget and Control Board

WITNESSES:

A. F. Stein

E. I. DU PONT de NEMOURS

BY:

Fred B. Pack

Joseph A. Benoit

Environmental Manager
TITLE

Approved
OFFICE OF THE ATTORNEY GENERAL

BY:

Kenneth P. Woodington
Kenneth P. Woodington

DATE: 1/29/93

06273

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

PERSONALLY appeared before me Michael L. Thompson and made oath that he/she saw the within named State of South Carolina, Budget and Control Board, by its Chairman, Governor Carroll A. Campbell, Jr., sign, seal, and as its act and deed deliver the within written Easement, and that he/she, along with Ramona H. Spivey witnessed the execution thereof.

Michael L. Thompson

SWORN to before me this 14th

day of July, 1992.

Jaye R. Holly (L.S.)
Notary Public for South Carolina

My Commission expires: 3-21-95

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

PERSONALLY appeared before me A. F. Steinkruger and made oath that he/she saw the within named E. I. du Pont de Nemours, by Fred B. Pack, its Env. Affairs Manager, sign, seal, and as its act and deed deliver the within written Easement, and that he/she, along with J. A. Beni, witnessed the execution thereof.

Linda S. Egerton

SWORN to before me this 26th

day of May, 1992 1993

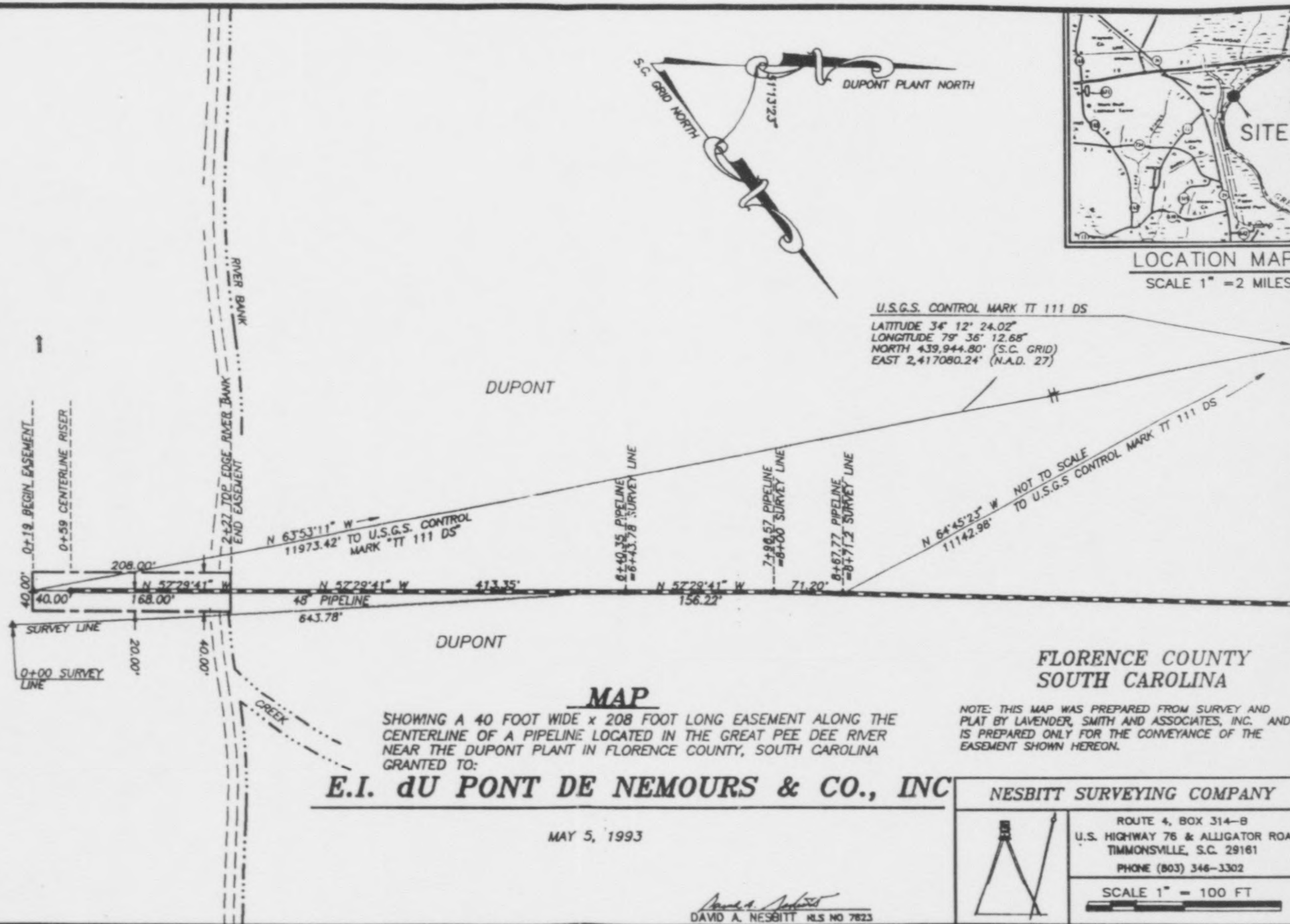
Linda S. Egerton (L.S.)
Notary Public for South Carolina

My Commission Expires: 2-19-96

06274

WASH JAMES, EST

GREAT PEE DEE RIVER



EXHIBIT

JUN 29 1993

4

STATE BUDGET AND CONTROL BOARD
MEETING OF June 29, 1993

STATE BUDGET & CONTROL BOARD
BLUE AGENDA

ITEM NUMBER

4

AGENCY: General Services

SUBJECT: Procurement Audit, Workers' Compensation Commission

The Division of General Services, in accord with Section 11-35-1230 of the Consolidated Procurement Code, has audited the procurement activity of the Worker's Compensation Commission.

Certification above the \$2,500 limit authorized by the Procurement Code was not requested. The report is submitted as information.

BOARD ACTION REQUESTED:

Receive as information a report that the Division of General Services, in accord with Code Section 11-35-1230, has audited the procurement activity of the Workers' Compensation Commission for which certification above the \$2,500 limit was not requested.

ATTACHMENTS:

Code Section 11-35-1230

06276

Section 11-35-1020. Advisory Groups.

The chief procurement officers may appoint advisory groups such as user committees to assist with respect to specifications and procurement in specific areas and with respect to any other matters within the authority of the chief procurement officers. The chief procurement officers shall develop methods for obtaining necessary and relevant information from the affected agencies, whether through user committees or by surveys and other methods. The chief procurement officers shall make every reasonable effort to ensure that such contracts are developed as will best suit the interest of the State, giving due emphasis to user needs, total costs and open competitive methods of public purchasing.

Section 11-35-1030. Procurement Training and Certification.

The Division of General Services shall develop a system of training for procurement in accordance with regulations by the board. Such training shall compass the latest techniques and methods of public procurement. If deemed appropriate by the Division of General Services, such training shall include a requirement for certification of the procurement officer of each purchasing agency.

SUBARTICLE 9

Auditing and Fiscal Reporting

Section 11-35-1210. Certification.

(1) **Authority.** The board may assign differential dollar limits below which individual governmental bodies may make direct procurements not under term contracts. The Division of General Services shall review the respective governmental body's internal procurement operation, shall certify in writing that it is consistent with the provisions of this code and the ensuing regulations, and recommend to the board those dollar limits for the respective governmental body's procurement not under term contract.

(2) **Policy.** Authorizations granted by the board to a governmental body are subject to the following:

- (a) adherence to the provisions of this code and the ensuing regulations, particularly concerning competitive procurement methods;
- (b) responsiveness to user needs;
- (c) obtaining of the best prices for value received.

(3) **Adherence to Provisions of the Code.** All procurements shall be subject to all the appropriate provisions of this code, especially regarding competitive procurement methods and nonrestrictive specifications.

Section 11-25-1220. Collection of Data Concerning Public Procurement.

The Division of General Services shall prepare statistical data concerning the procurement, use and disposition of all supplies, services and construction. All using agencies shall furnish such reports as the Division of General Services may require concerning use, needs and stocks on hand, and the chief procurement officers shall prescribe forms to be used by the using agencies in requisitioning, ordering and reporting supplies, services and construction. The chief procurement officers shall limit requests for information to those items necessary for the effective operation of the purchasing system, but using agencies shall be required to provide information as requested.

Section 11-35-1230. Auditing and Fiscal Reporting.

(1) **Auditing.** The Division of General Services through consultation with the chief procurement officers shall develop written plans for the auditing of state procurements.

In procurement audits of governmental bodies thereafter, the auditors from the Division of General Services shall review the adequacy of the system's internal controls in order to ensure compliance with the requirement of this code and the ensuing regulations. Any noncompliance discovered through audit must be transmitted in management letters to the audited governmental body, the Budget and Control Board. The auditors shall provide in writing proposed corrective action to governmental bodies. Based upon audit recommendations of the Division of General Services the board may revoke certification as provided for in Section 11-35-1210 and require the governmental body to make all procurements through the office of materials management above a dollar limit set by the board until such time as the board is assured of compliance with this code and its regulations by that governmental body.

(2) **Fiscal Reporting.** Beginning with the first quarter of fiscal year 1981-82 and each quarter thereafter, in

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET (Revised 9/91)

For meeting scheduled for:

June 29, 1993

☒ Blue Agenda
☐ Regular session
☐ Executive session

1. Submitted by: (a) Agency: Division of General Services
(b) Authorized Official Signature: Richard W. Kelly, Director

Richard W. Kelly

2. Subject: Procurement Audit of the Workers' Compensation Commission

3. Summary Background Information:

In accordance with Section 11-35-1230 of the South Carolina Consolidated Procurement Code, the Division of General Services has audited the procurement activity of the Workers' Compensation Commission. Certification above the \$2,500.00 limit authorized by the Procurement Code was not requested so the report is submitted as information.

4. What is Board asked to do?

Receive the report as information

5. What is recommendation of Board division involved?

That the report be received as information

6. Recommendation of other office (as required)?

Office Name _____	Authorized Signature _____
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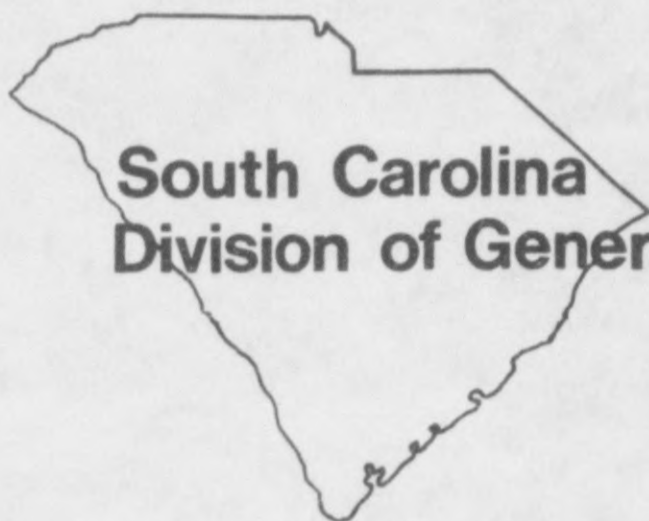
7. Supporting Documents:

List those attached:

List those not attached
but available:

-Copy of Section 11-35-1230 of the Procurement Code

06278



**South Carolina
Division of General Services**

PROCUREMENT AUDIT AND CERTIFICATION

WORKERS' COMPENSATION COMMISSION

AGENCY

JANUARY 1, 1990 - DECEMBER 31, 1992

DATE

06279

STATE OF SOUTH CAROLINA
State Budget and Control Board
DIVISION OF GENERAL SERVICES



CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

HELEN T. ZEIGLER
DEPUTY DIRECTOR

MATERIALS MANAGEMENT OFFICE
1201 MAIN STREET, SUITE 600
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-0600

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

July 2, 1993

EXHIBIT

JUN 29 1993

4

STATE BUDGET & CONTROL BOARD

Mr. Richard W. Kelly
Director
Division of General Services
1201 Main Street, Suite 420
Columbia, South Carolina 29201

Dear Rick:

I have attached the procurement audit of the South Carolina Workers' Compensation Commission as prepared by the Office of Audit and Certification. Since no certification above the \$2,500.00 limit allowed by law was requested, and no action is necessary by the Budget and Control Board, I recommend that this report be presented to them for their information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Helen T. Zeigler".

Helen T. Zeigler
Deputy Division Director

HTZ/jlj

Attachment

06280

EXHIBIT

JUN 29 1993

'4'

STATE BUDGET & CONTROL BOARD

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

PROCUREMENT AUDIT REPORT

JANUARY 1, 1990 - DECEMBER 31, 1992

06281

TABLE OF CONTENTS

	<u>PAGE</u>
Transmittal Letter.....	1
Scope.....	4
Results of Examination.....	5
Conclusion.....	8
Agency Response.....	9
Follow-up Review.....	11

EXHIBIT

JUN 29 1993 4

STATE BUDGET & CONTROL BOARD

STATE OF SOUTH CAROLINA
State Budget and Control Board
DIVISION OF GENERAL SERVICES



CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

HELEN T. ZEIGLER
DEPUTY DIRECTOR

MATERIALS MANAGEMENT OFFICE
1201 MAIN STREET, SUITE 600
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-0600

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

EXHIBIT

July 1, 1993

JUN 29 1993

4

STATE BUDGET & CONTROL BOARD

Helen T. Zeigler
Deputy Director
Division of General Services
1201 Main Street, Suite 420
Columbia, South Carolina 29201

Dear Helen:

We have examined the procurement policies and procedures of the South Carolina Workers' Compensation Commission for the period January 1, 1990 - December 31, 1992. As part of our examination, we studied and evaluated the system of internal control over procurement transactions to the extent we considered necessary.

The evaluation was to establish a basis for reliance upon the system of internal control to assure adherence to the Consolidated Procurement Code and State and internal procurement policy. Additionally, the evaluation was used in determining the nature, timing and extent of other auditing procedures necessary for developing an opinion on the adequacy, efficiency and effectiveness of the procurement system.

06283

The administration of the South Carolina Workers' Compensation Commission is responsible for establishing and maintaining a system of internal control over procurement transactions. In fulfilling this responsibility, estimates and judgements by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance of the integrity of the procurement process, that affected assets are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and are recorded properly.

Because of inherent limitations in any system of internal control, errors or irregularities may occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

Our study and evaluation of the system of internal control over procurement transactions, as well as our overall examination of procurement policies and procedures, were conducted with professional care. However, because of the nature of audit testing, they would not necessarily disclose all weaknesses in the system.

The examination did, however, disclose conditions enumerated in this report which we believe need correction or improvement.

06284

Corrective action based on the recommendations described in these findings will in all material respects place the South Carolina Workers' Compensation Commission in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

R. Voight Shealy

R. Voight Shealy, CFE, Manager
Audit and Certification

EXHIBIT

JUN 29 1993

4

STATE BUDGET & CONTROL BOARD

06285

SCOPE

We conducted our examination in accordance with Generally Accepted Auditing Standards as they apply to compliance audits. Our examination encompassed a detailed analysis of the internal procurement operating procedures of the South Carolina Workers' Compensation Commission and its related policies and procedures manual to the extent we deemed necessary to formulate an opinion on the adequacy of the system to properly handle procurement transactions.

We selected judgemental samples for the period July 1, 1990 through December 31, 1992, of procurement transactions for compliance testing and performed other audit procedures that we considered necessary to formulate this opinion. As specified in the Consolidated Procurement Code and related regulations, our review of the system included, but was not limited to, the following areas:

- (1) All sole source and emergency procurements and trade-in sales for the period January 1, 1990 - December 31, 1992
- (2) Property management and fixed asset procedures
- (3) Purchase transactions for the period July 1, 1990 - December 31, 1992
 - a) Forty-nine payments each exceeding \$500
 - b) Block sample of one hundred sequential purchase orders for two months of activity
- (4) Minority Business Enterprise Plan and quarterly reports
- (5) Procurement staff and training
- (6) Procurement procedures
- (7) Information Technology Plan

06286

RESULTS OF EXAMINATION

We conducted an examination of the internal procurement operating policies and procedures of the South Carolina Workers' Compensation Commission for the period January 1, 1990 through December 31, 1992. Our on-site review was conducted March 1-10, 1992, and was made under authority as described in Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code and Regulation 19-445.2020.

Most recently, on June 27, 1990, the Budget and Control Board granted the South Carolina Department of Labor the following procurement certification:

<u>Category</u>	<u>Requested Limit</u>
Goods and Services	\$ 5,000 per commitment
Consultant Services	\$ 5,000 per commitment

Since that certification expires June 27, 1993, this audit was performed primarily to determine if recertification is warranted.

While the Commission has maintained a professional and efficient procurement system since our last audit, we did note the following items which should be addressed by management.

I. Unauthorized Changes

The Materials Management Office solicited sealed bids for the printing of the Commission's "Schedule for Fees for Physicians and Surgeons".

State purchase order number P000002005 for \$12,000.00 was issued for this service. The Commission received and paid two

invoices. The total of these two invoices was \$20,343.23. Of this amount, \$12,000 was the original contract price, \$3,450.00 were changes that were allowed in the contract, \$968.73 was sales tax, and \$3,924.50 were changes that were not allowed in the contract.

Page 4, item 16 of the South Carolina Government Printing Services Manual dated February 1, 1990 requires that any alterations be approved by the person responsible for the procurement prior to the work being done.

Since this service was procured by the Materials Management Office, the approval of that buyer was needed prior to these changes. Since his approval was not obtained, these charges are unauthorized.

Accordingly, we recommend that the Commission submit these changes to the Materials Management Officer for ratification. We also recommend that the Commission cease making changes to contracts without prior approval.

II. Errors in Tabulation

The Commission solicited written quotations for thirteen lots of printed forms on purchase requisition 90646. When the quotes were recorded on the tabulation, sales tax was included in one of the quotes resulting in \$2,534.64 being shown instead of \$2,413.94. The other quotes did not have sales tax added.

However, due to an ambiguity in one of the other quotes, the Commission did not include a \$390 charge for artwork. This oversight resulted in \$2,111.00 instead of \$2,501.00 being recorded on the tabulation.

06288

As a result of these errors, the procurement was awarded to the apparent low quote who actually gave the highest quote. These errors were not discovered by the Commission until the invoice of \$2,702.05 was received by which time the work had been performed. This invoice was paid on DV 565 dated 1/8/91.

Accordingly, we recommend that the Commission exercise caution when preparing tabulation sheets and any ambiguities in quotes be resolved prior to award.

EXHIBIT

JUN 29 1993 4

STATE BUDGET & CONTROL BOARD

CONCLUSION

As enumerated in our transmittal letter, corrective action based on the recommendations described in this report, we believe, will in all material respects place the South Carolina Workers' Compensation Commission in compliance with the State's Consolidated Procurement Code and ensuing regulations.

During the audit, the Commission decided that its procurement activity did not warrant a request for recertification. We concur. This conclusion is not driven by our concern for the audit results addressed in this report, but rather a decision that recertification in this case is unnecessary.

Melissa Rae Thurstin

Melissa Rae Thurstin
Compliance Analyst

R. Voight Shealy

R. Voight Shealy, CFE, Manager
Audit and Certification

06290

State of South Carolina

1612 Marion Street
P.O. Box 1715
Columbia, S.C. 29202-1715



(803) 737-5700

Workers' Compensation Commission

June 2, 1993

Commissioners

R. Walter Hundley

Chairman

737-5701

Vernon F. Dunbar

Vice Chairman

737-5697

William Clyburn

737-5668

Thomas M. Marchant III

737-5663

David W. Huffstetler

737-5692

Marvin F. Kittrell

737-5678

Sherry Shealy Martschink

737-5660

Executive Director

Michael Grant LeFever

737-5744

EXHIBIT

JUN 29 1993

4

STATE BUDGET & CONTROL BOARD

R. Voight Shealy, Manager
Audit and Certification
Materials Management Office
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Voight:

Thank you for the opportunity to respond to the recent procurement audit report conducted by your office for the period January 1, 1990 to December 31, 1992. We are very pleased with the overall positive findings of your report as it generally validates the success of our program.

With respect to the two minor findings that your office reported, the Commission has taken immediate steps to make sure that the shortcomings are not repeated. With respect to unauthorized changes in State purchase order number P000002005, the Commission will submit the changes to the Materials Management Office for ratification. In addition, the Commission is instructing all managers to coordinate and have approved all activities related to purchasing with our Administrative Services Director prior to authorizing any changes with a selected vendor.

The error in tabulation which resulted in the Commission paying more than the lowest bid for forms purchased on DV565 was simply a human error whose root cause probably stems to the fact that our Administrative Services Director has been required to take on additional duties because of a reduction in force caused by recent budget reductions. Mr. Yarborough is aware of the importance of accuracy, and he will be more diligent with tabulating and recording quotes in the future.

R. Voight Shealy, Manager
Page Two
June 2, 1993

Please let me call to your attention that on page 5 under Results of Examination your report referred to the South Carolina Department of Labor. This reference needs to be corrected to reflect the Workers' Compensation Commission.

I want to thank you and Ms. Thurstin for the very professional manner in which this audit was conducted. As we discussed, the agency is not seeking recertification because it is a privilege that we rarely have had an opportunity to use. In addition, there may be certain legislative changes which would expand each agency's authority in the area of procurement.

Thank you for your assistance and this opportunity to comment on the results of our audit report.

Yours very truly,

Mime

Michael Grant LeFever
Executive Director

MGL/ac

CC: R. Walter Hundley, Chairman
Foster Yarborough

06292

STATE OF SOUTH CAROLINA
State Budget and Control Board
DIVISION OF GENERAL SERVICES



CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

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JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

July 1, 1993

EXHIBIT

JUN 29 1993

4

STATE BUDGET & CONTROL BOARD

Helen T. Zeigler
Deputy Division Director
Division of General Services
1201 Main Street, Suite 420
Columbia, South Carolina 29201

Dear Helen:

We have reviewed the response to our audit report of the South Carolina Workers' Compensation Commission covering the period January 1, 1990 - December 31, 1992. Combined with observations made during our site visit and documentation submitted by the Commission, this review has satisfied us that the Commission has corrected the problem areas found and that internal controls over the procurement system are adequate.

Since the Commission has not requested recertification, we recommend that the Commission be allowed to procure all goods and services, consultants, information technology and construction up to the basic level of \$2,500.00 authorized by the Consolidated Procurement Code.

Sincerely,

R. Voight Shealy, Manager
Audit and Certification

RVS/jj

Total Copies Printed - 32
Unit Cost - .65
Total Cost - 20.80

06293

EXHIBIT

JUN 29 1993

5

STATE BUDGET AND CONTROL BOARD
MEETING OF June 29, 1993

STATE BUDGET & CONTROL BOARD
BLUE AGENDA

ITEM NUMBER 5

AGENCY: Local Government

SUBJECT: Grant Program Expenditures, January - March

The Division advises that five projects involving a total expenditure of \$559,000 were approved during the January - March, 1993, period.

BOARD ACTION REQUESTED:

Receive as information a Division of Local Government report that five grants totalling \$559,000 were approved during the January - March, 1993, period.

ATTACHMENTS:

Agenda item worksheet; Summary Report; Grant Program Report

06294

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET (12/84)

Meeting Scheduled for : June 8, 1993

Agenda: *Blue*

1. Sumbitted By:

(a) Agency: *B&C Bd - Local Government*

(b) Authorized Official Signature: *M. J. Sully*

2. Subject: *Budget and Control Board Grant Program expenditures for the period
January 1, 1993 - March 31, 1993*

3. Summary Background Information:

The referenced report includes five (5) projects involving expenditure of \$ 559,000.

4. What is Board asked to do?
Receive as information

5. What is recommendation of Board Division involved?

6. Recommendation of other Division/agency (as required)?

(a) Authorized Signature: _____

(b) Division/Agency Name: _____

7. Supporting Documents:

(a) List Those Attached:
See attached report

(b) List Those Not Attached But Available From Submitter:

06295

BUDGET AND CONTROL BOARD, DIVISION OF LOCAL GOVERNMENT

Summary Report of the Budget and Control Board Grant Program

For the period: *January 1, 1993 - March 31, 1993*

Report for Board meeting on: *June 8, 1993*

	Total
1. Appropriation for fiscal year	\$ 6,859,202**
2. Applications Approved:	
A. This Period:	
(1) Number	5
(2) Amount	\$ 559,000
B. To Date:	
(1) Number	26
(2) Amount	\$1,575,667

EXHIBIT

06296

JUN 29 1993

5

STATE BUDGET & CONTROL BOARD

**** Adjusted Appropriations**

Budget and Control Board Grant Program

For the period: January 1, 1993 - March 31, 1993

Report of Board meeting on: June 8, 1993

Grant Recipient	Project Description	Date Funded	Amount Approved	Funds Matched
Spartanburg County	Meansville-Riley Road Water Co., Inc.	01/19/93	\$ 7,000	\$16,977
Union County	Mini-TA -- Study for needed improvements at the Union County Airport in order to increase its viability as a resource for promoting economic development.	02/25/93	1,000	3,500
Darlington County	Title IX Revolving Loan Fund -- Pee Dee COG. JOBS: 100	03/11/93	500,000	500,000
Newberry County	Assist in expansion of Precision Fiberglass, Inc. JOBS: 20	03/23/93	50,000*	298,700
Town of Great Falls	Mini-TA -- Brochures to market industrial park and building.	03/23/93	1,000	3,500
06297	EXHIBIT			

JUN 29 1993 5

Total

\$ 559,000

\$ 822,677

*Approved by B&C Board

STATE BUDGET & CONTROL BOARD

EXHIBIT

JUN 29 1993

6

STATE BUDGET AND CONTROL BOARD
MEETING OF June 29, 1993

STATE BUDGET & CONTROL BOARD
BLUE AGENDA
ITEM NUMBER 6

AGENCY: Information Resource Management

SUBJECT: State Emergency Communications Network

In 1989 following Hurricane Hugo, the Governor's Office analyzed the State's disaster preparedness capabilities including the telecommunications system. As a result of the evident need to improve the telecommunications network capabilities and backup, the "Partners in Preparedness" initiative between State government and telephone and power utilities established the South Carolina Emergency Communications Network at no cost to the State.

Though the State now has a substantial first-level of communications capability, an additional initiative was undertaken between the State and BellSouth to establish another level of backup emergency communications capability. At the Division's request, BellSouth requested a waiver of the AT&T Antitrust Consent Decree to allow the State to use BellSouth's Corporate Network in the event the State's primary and backup network facilities were damaged by a natural or man-made disaster.

After almost two years of consideration and additional impetus provided as a result of Hurricane Andrew, the US District Court ordered that BellSouth may allow the State of South Carolina to use its facilities in the event that:

1. The Governor of South Carolina has declared an official state of emergency in accordance with S.C. Code Ann. § 25-1-440 (a) (2) (1991);
2. The State has notified BellSouth that all other portions of the State's emergency communications network between specified locations have failed and that the State requires temporary access to Southern Bell's internal network for inter-LATA communications between those specified locations;
3. The use of Southern Bell's internal network by the State for inter-LATA communications shall cease when other facilities that are part of the State's telecommunications network become available to the State; and
4. Neither BellSouth nor any affiliate shall receive any compensation or payment for use of Southern Bell's internal network for inter-LATA communications by the State during such an emergency.

The Division advises that this is the first such waiver request made to the Court, and Judge Greene's decision should facilitate similar requests from other states for emergency communications.

BOARD ACTION REQUESTED:

Receive as information the US District Court's decision to allow the State of South Carolina to use BellSouth's Corporate Network in the event that the State's primary communications network and backup communications network are damaged by natural or man-made disaster.

ATTACHMENTS:

Agenda item worksheet; Order

06298

EXHIBIT

JUN 29 1993

6

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET (Revised 9/91) STATE BUDGET & CONTROL BOARD

For meeting scheduled for:

June 29, 1993

☒ Blue Agenda
☐ Regular Session
☐ Executive Session

1. Submitted by: (a) Agency: Division of Information Resource Management
(b) Authorized Official Signature _____

2. Subject: State Emergency Communications Network

3. Summary Background Information: Following Hurricane Hugo in the fall of 1989, the Governor's Office undertook an analysis of South Carolina's Disaster Preparedness capabilities, including the State's Telecommunications System. The need to improve the State's Telecommunications Network capabilities and backup were very evident and as a result the "Partners in Preparedness" initiative was established between State government and Telephone and the Power utilities in South Carolina, which resulted in establishment of the South Carolina Emergency Communications Network provided at no cost to the State by the Partners.

Even though the State of South Carolina now has a very substantial first level of communications capability and the Partners in Preparedness provides virtually an unparalleled capability, an additional initiative was undertaken between the State and BellSouth, to establish another level of backup emergency communications capability. At DIRM's request, BellSouth Corporation requested a waiver of the AT&T Antitrust Consent Decree to allow the State to use BellSouth's Corporate Network in the event that South Carolina's primary network and backup network facilities were damaged by a natural or man-made disaster. A waiver was required due to the restrictions placed on the Bell operating companies as a result of divestiture in 1984. BellSouth made a motion of waiver of the Consent Decree to the United States District Court for the District of Columbia, i.e., Judge Harold Greene, to allow the State of South Carolina to use its facilities in the event of an emergency.

After almost two years of consideration, and additional impetus provided as a result of Hurricane Andrew which devastated many areas of South Florida and Louisiana, on May 21, 1993, the Court ordered that BellSouth may allow the State of South Carolina to use its facilities in the event that:

(1) the Governor of South Carolina has declared an official state of emergency in accordance with S.C. Code Ann. §25-1-440 (a) (2) (1991);

(2) the State of South Carolina has notified BellSouth that all other portions of the State's emergency communications network between specified locations have failed and that the State requires temporary access to Southern Bell's internal network for inter-LATA communications between those specified locations;

06299

(3) the use of Southern Bell's internal network by the State of South Carolina for inter-LATA communications shall cease when other facilities that are part of the state's telecommunications network become available to the state; and

(4) neither BellSouth nor any affiliate shall receive any compensation or payment for use of Southern Bell's internal network for inter-LATA communications by the State during such an emergency.

To our knowledge, this is the first such waiver request made to the Court, and Judge Greene's decision should facilitate other states similar requests for emergency communications.

4. What is Board asked to do: Receive as information the Court's decision to allow the State to use BellSouth's Corporate Network in the event that South Carolina's primary network and backup networks were damaged by natural or man-made disaster.

5. What is recommendation of the Board division involved?
Receive as information.

6. Recommendation of other office (as required)

Office Name _____ Authorized
Signature _____

7. Supporting Documents:

List those attached:

Unites States District
Court Order - Civil Action
No. 82-0192

List those not attached
but available:

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

EXHIBIT

JUN 29 1993

6

STATE BUDGET & CONTROL BOARD

UNITED STATES OF AMERICA

Plaintiff,

v.

WESTERN ELECTRIC COMPANY, INC.
AND AMERICAN TELEPHONE AND
TELEGRAPH COMPANY,

Defendants.

Civil Action No. 82-0192
(HHG)

FILED

MAY 24 1993

NANCY M. HAYES-HUNTINGTON

ORDER

Now pending before the Court is a motion by BellSouth Corporation for a waiver of the decree in order to allow the State of South Carolina to use its facilities in the event of an emergency. For the reasons stated below the Court grants this request, although the final order is a modified version of the original proposal submitted to the Court by BellSouth.

The genesis of this waiver request was the massive damage which Hurricane Hugo inflicted on South Carolina in the fall of 1989. In the wake of that storm, the state government undertook an analysis of South Carolina's disaster preparedness, including the state's telecommunications system. As a result of this work state officials requested that BellSouth's Southern Bell subsidiary allow the State to use Southern Bell's corporate network in the event that South Carolina's primary network and

06301

7045

backup network facilities were damaged by a natural or man-made disaster.¹ Southern Bell would not be compensated by South Carolina in the event that Southern Bell's facilities were used and the State would be permitted to use Southern Bell's network only until state controlled facilities were repaired. The Department of Justice supports this waiver request although it has proposed narrowing the scope of the waiver in response to comments that have been filed by other concerned parties.

While this waiver request was pending, Hurricane Andrew devastated many areas of south Florida and Louisiana. In response to that disaster, this Court received and granted emergency requests from BellSouth to waive access charges from pay phones in those areas. These events demonstrated the value of allowing temporary waivers of the consent decree in order to meet urgent public safety needs.

The waiver request currently before the Court simply seeks to obtain legal authorization for such emergency procedures prior to the onset of next calamity. This Court does not believe an ad hoc approach to this issue, requiring a Regional Company to apply for a waiver after the next disaster strikes, is in the public interest. The inevitable delay caused by the preparation, filing, and approval of such waivers would be counterproductive. A properly limited pre-existing waiver, which is triggered by a

¹ Sine South Carolina has four LATAs the furnishing of this service would involve Southern Bell in the provision of interexchange services in violation of section II(d)(1).

clearly defined set of circumstances, would be most responsive to the needs of communities faced with a crippling emergency.

Concerns about the potential competitive effects of this type of waiver give the Court some reason for pause. As the comments of AT&T correctly point out, the waiver, as originally configured, was too vague as to the predicate events which would authorize the state of South Carolina to utilize Southern Bell's facilities. Obviously, the more numerous the situations where this waiver could be utilized, the greater the potential anticompetitive effects.

Accordingly, the Court finds that South Carolina should be permitted to utilize Southern Bell's network only where the Governor has officially declared a state of emergency. Such a condition clearly delineates the circumstances in which Southern Bell facilities will be made available to the State. Under State law, the Governor is authorized to declare a state of emergency in a relatively limited number of situations. See S.C. Code Ann. §25-1-440(a)(2) (1991). The other conditions set forth in the order further curtail the situations where South Carolina will be able to use the Southern Bell network. Moreover, the order specifically states that use of Southern Bell facilities shall cease once the state's telecommunications network becomes available again. Therefore, the use of Southern Bell's network by the state is limited in both frequency and duration.

Under the section VIII(c) standard, "unless the entering BOC will have the ability to raise prices or restrict output in the

market it seeks to enter, there can be no substantial possibility that it could use its monopoly power to impede competition."

United States v. Western Elec. Co., 900 F.2d 283, 296 (D.C. Cir.) cert. denied, 111 S. Ct. 283 (1990). This waiver request meets this standard since BellSouth will not be able to raise prices or restrict output in the interexchange market if this waiver is granted.

For these reasons, it is this 21st day of May, 1993

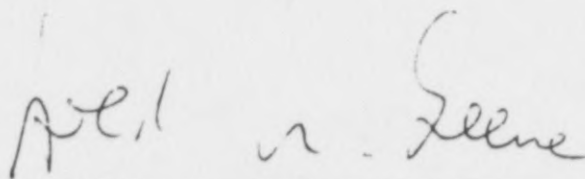
ORDERED, that BellSouth may allow the State of South Carolina to use its facilities in the event that:

(1) the Governor of South Carolina has declared an official state of emergency in accordance with S.C. Code Ann. §25-1-440(a)(2) (1991);

(2) the State of South Carolina has notified BellSouth that all other portions of the State's emergency communications network between specified locations have failed and that the State requires temporary access to Southern Bell's internal network for inter-LATA communications between those specified locations;

(3) the use of Southern Bell's internal network by the State of South Carolina for inter-LATA communications shall cease when other facilities that are part of the state's telecommunications network become available to the state; and

(4) neither BellSouth nor any affiliate shall receive any compensation or payment for use of Southern Bell's internal network for inter-LATA communications by the State during such an emergency.



HAROLD H. GREENE
United States District Judge

EXHIBIT

JUN 29 1993

6

STATE BUDGET & CONTROL BOARD

EXHIBIT

JUN 29 1993

7

STATE BUDGET AND CONTROL BOARD
MEETING OF June 29, 1993

STATE BUDGET & CONTROL BOARD
REGULAR SESSION
ITEM NUMBER 1

AGENCY: Budget Division

SUBJECT: Processing Fund Transfers

Provisos 129.13 and 1A.1 of the 1993-94 Appropriations Act make major changes to the traditional way in which budget transfers have been handled. The Division has consulted with staff of the Comptroller General's Office, the Senate Finance Committee, and the Ways and Means Committee and recommends approval of the following procedures relating to fund transfers:

Agencies may transfer appropriations as needed within and between programs provided that no other rule or law prohibits such transfer with the exceptions listed below:

1. Transfer between programs may not exceed 20% of a program budget.
2. Any transfer from Personal Service to other budget codes must be approved by the State Budget Division, with a yearly limit not to exceed \$50,000 or 1% of total Personal Service budget, whichever is greater. Requests to exceed this limit would require approval of the Budget and Control Board. This is a change from present policy established February 11, 1986, and is more in keeping with the current management situation and the intent of Proviso 129.13 as revised. The Budget Division recommends that transfers of other operating funds to Personal Service be managed as needed between the State Budget Division and the agencies, as is currently the case, without setting a ceiling. Any significant amounts would need to show evidence of the agency's ability to annualize the amount involved, and such transfers would have to be fully justified and explained.
3. Appropriation transfers which may be necessitated by the Appropriations Act and/or reduction transfers which may be a result of Budget and Control Board actions will be managed and approved by the State Budget Division as is current practice.
4. Transfers involving cash only transactions will no longer be processed through the State Budget Division but should be sent directly to the Comptroller General's Office.
5. Agencies making transfers as outlined above, not receiving State Budget Division or other Board approval, are required to notify the Comptroller General's Office for proper accounting in whatever format that Office may stipulate and must notify, by copy, the State Budget Division. Notification to the State Budget Division of "cash only" transfers is not required.
6. The Budget Division will report monthly to all Board members and the Secretary to the Board on Personal Service transfers.

BOARD ACTION REQUESTED:

Approve procedures for processing fund transfers in accord with Provisos 129.13 and 1A.1 of the 1993-94 Appropriations Act, as recommended by the Budget Division.

ATTACHMENTS: Agenda item worksheet; Provisos 1A.1 and 129.13; Total Personal Service by Agency

06306

JUN 29 1993

7

STATE BUDGET & CONTROL BOARD

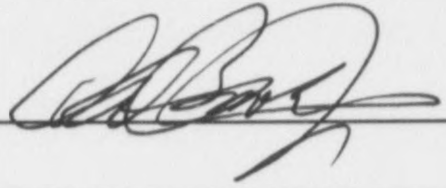
BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET (12/84)

93-61

Meeting Scheduled for: June 28, 1993

Regular Agenda

1. Submitted By:

- (a) Agency: State Budget Division
(b) Authorized Official Signature: 

2. Subject:

Changes in Authorization and Processing Budget Transfers

3. Summary Background Information:

Provisos 129.13 and 1A.1 contained in the FY 1993-94 Appropriation Act represent major changes to the traditional way in which budget transfers have been handled by the Agencies, the State Budget Division of the Budget & Control Board, and the Comptroller General's Office. (See attached.)

The State Budget Division has been in consultation with the Comptroller General's Office and the staffs of the Senate Finance and House Ways and Means Committees relative to these changes and intends to communicate the following to all agencies upon approval by the Budget and Control Board.

Agencies may transfer appropriations as needed within and between programs provided that no other rule or law prohibits such transfer with the exceptions listed below.

1) Transfer between programs may not exceed 20% of a program budget.

2) Any transfer from Personal Service to other budget codes must be approved by the State Budget Division, with a yearly limit not to exceed \$50,000 or 1% of total Personal Service budget, whichever is greater. Requests to exceed this limit would require the approval of the Budget and Control Board. Please note that this is a change from present policy established February 11, 1986. The State Budget Division believes this change is more in keeping with the current management situation and the intent of Proviso 129.13 as revised by the FY 1993-94 Appropriation Act. The State Budget Division recommends that transfers of other operating to Personal Service be managed as needed between the State Budget Division and the Agencies as is currently the case, without setting a ceiling. Any significant amounts would need to show evidence of the ability of an agency to annualize the amount involved, and such transfers would have to be fully justified and explained.

3) Appropriation transfers which may be necessitated by the Appropriation Act and/or reduction transfers which may be a result of Budget and Control Board actions will be managed and approved by the State Budget Division as is current practice.

06307

4) Transfers involving cash only transactions will no longer be processed through the State Budget Division but should be sent directly to the Comptroller General's Office.

5) Agencies making transfers as outlined above, not receiving State Budget Division or other Board approval, are required to notify the Comptroller General's Office for proper accounting in whatever format that office may stipulate and must notify, by copy, the State Budget Division. Notification to State Budget Division of "cash only" transfers is not required.

6) It is recommended that the reporting requirements of Personal Service transfers, etc. become a routine recurring report on a monthly basis to all Board members and the Public Information Officer of Board, rather than a blue agenda item.

-
4. What is Board asked to do?
Approve the procedures presented herein.

-
5. What is recommendation of Board Division involved?
Approval of these procedures.

-
6. Recommendation of other Division/agency (as required)?

(a) Authorized Signature: _____

(b) Division/Agency Name: _____

-
7. Supporting Documents:

(a) List Those Attached:

Copy of Proviso 129.13

Copy of Proviso 1A.1

(b) List Those Not Attached But Available From Submitter:

Schedule of Personal Service totals

06308

1A.1. (Use of Funds) It is the intent of the General Assembly to appropriate all State funds and to authorize and/or appropriate the use of all Federal and other funds for the operations of State agencies and institutions for the current fiscal year. Transfers of funds may be approved by the Budget and Control Board under its authority <or by the agency> as set forth herein <in Section 129.13>. Any agency which requests <or transfers> personal service funds must indicate on the transfer document whether or not a reduction in force is involved. To the extent practicable, all agencies and institutions having Federal or other funds available for the financing of their operation shall expend such funds in accordance with the <intent of> this Act. The authorization to spend Federal and other funds shall be decreased to the extent that receipts from these sources do not meet the estimates as reflected in each Section of this Act; and any increase shall be authorized through the review process as set forth in Act 651 of 1978 as amended.

129.13. (Transfers of Appropriations) <Agencies and institutions shall be authorized to transfer appropriations within programs and within the agency with notification to the State Budget Division and Comptroller General. No such transfer may exceed twenty percent of the program budget. Upon request, details of such transfers may be provided to members of the General Assembly on an agency by agency basis. Transfers of appropriations from personal service accounts to other operating accounts or from other operating accounts to personal service accounts may be restricted to any established standard level set by the Budget and Control Board upon formal approval by a majority of the members of the Budget and Control Board.>

EXHIBIT

JUN 29 1993

7

STATE BUDGET & CONTROL BOARD

06309

06/04/93
13:34:12

TOTAL PERSONAL SERVICE BY AGENCY
FOR: FREE CONFERENCE

PGM: AAP746NP
PAGE: 1

AGENCY #	AGENCY NAME	TOTAL AMT OF PERSONAL SERVICE
H27	UNIV OF SOUTH CAROLINA	177,413,378
X50	DEPARTMENT OF HIGHWAYS/PUBLIC TRANSPORTATION	163,996,366
J04	DEPARTMENT OF HEALTH & ENVIRONMENTAL CONTROL	145,507,584
J12	DEPARTMENT OF MENTAL HEALTH	144,491,362
H59	BD. FOR TECHNICAL & COMPREHENSIVE EDUCATION	134,797,170
H12	CLEMSON UNIVERSITY (EDUCATIONAL & GENERAL)	131,892,116
N04	DEPARTMENT OF CORRECTIONS	129,624,703
L04	DEPARTMENT OF SOCIAL SERVICES	121,226,377
H51	MEDICAL UNIVERSITY OF SOUTH CAROLINA	107,405,472
H52	MEDICAL UNIVERSITY OF S C HOSPITAL	104,873,927
J16	DEPARTMENT OF MENTAL RETARDATION	82,474,027
R60	EMPLOYMENT SECURITY COMMISSION	41,484,704
P20	CLEMSON UNIV (PUBLIC SERVICE ACTIVITIES)	40,238,120
H15	UNIVERSITY OF CHARLESTON	29,736,784
H73	VOCATIONAL REHABILITATION	29,694,545
H63	DEPARTMENT OF EDUCATION	29,334,848
H47	WINTHROP UNIVERSITY	25,736,921
N12	DEPARTMENT OF YOUTH SERVICES	22,723,538
R44	TAX COMMISSION	21,421,610
P24	WILDLIFE & MARINE RESOURCES DEPARTMENT	21,275,404
H24	SOUTH CAROLINA STATE UNIVERSITY	20,832,974
N08	PROBATION, PAROLE AND PARDON SERVICES BD	20,376,855
J02	HEALTH & HUMAN SERVICES FINANCE COMMISSION	18,773,394
H09	THE CITADEL	18,519,990
B04	JUDICIAL DEPARTMENT	17,590,765
H28	U S C - MEDICAL SCHOOL	17,288,608
H18	FRANCIS MARION UNIVERSITY	14,409,249
D10	GOVERNOR'S OFF-STATE LAW ENFORCEMENT DIVISION	13,999,168
H32	U S C - COASTAL CAROLINA CAMPUS	13,876,807
P28	DEPARTMENT OF PARKS, RECREATION & TOURISM	12,636,333
H34	U S C - SPARTANBURG CAMPUS	12,070,934
P12	FORESTRY COMMISSION	11,511,463
H67	EDUCATIONAL TELEVISION COMMISSION	10,838,983
H21	LANDER UNIVERSITY	10,214,957
H75	SCHOOL FOR THE DEAF AND THE BLIND	9,945,563
H29	U S C - AIKEN CAMPUS	9,829,901
F12	B & C-GENERAL SERVICES DIVISION	9,044,810
D17	GOVERNOR'S OFF-EXECUTIVE POLICY & PROGRAMS	6,114,746
P16	DEPARTMENT OF AGRICULTURE	5,637,341
F10	B & C-INFORMATION RESOURCE MANAGEMENT DIV	5,617,469
A01	LEG. DEPT-THE SENATE	4,674,495
E24	ADJUTANT GENERAL'S OFFICE	4,646,146
R04	PUBLIC SERVICE COMMISSION	4,475,049
N20	LAW ENFORCEMENT TRAINING COUNCIL	4,239,799
R36	DEPARTMENT OF LABOR	4,234,319
A05	LEG. DEPT-HOUSE OF REPRESENTATIVES	4,207,451
E29	ATTORNEY GENERAL'S OFFICE	3,968,001
F29	B & C-RETIREMENT DIVISION	3,966,693
H39	U S C - SUMTER CAMPUS	3,844,029
L24	COMMISSION FOR THE BLIND	3,614,852

06310

06/04/93
13:34:12

TOTAL PERSONAL SERVICE BY AGENCY
FOR: FREE CONFERENCE

PGM: AAP746NP
PAGE: 2

AGENCY #	AGENCY NAME	TOTAL AMT OF PERSONAL SERVICE
E12	COMPTROLLER GENERAL'S OFFICE	3,283,067
F20	B & C-INSURANCE SERVICES DIVISION	3,242,995
F04	B & C-DIV OF INTERNAL OPERATIONS	3,199,026
J03	CONT OF CARE - EMOTIONALLY DISTURBED CHILDREN	3,036,250
P32	DEVELOPMENT BOARD	3,010,412
R20	DEPARTMENT OF INSURANCE	2,965,814
H79	DEPARTMENT OF ARCHIVES AND HISTORY	2,748,989
R12	WORKERS' COMPENSATION FUND	2,643,145
P04	WATER RESOURCES COMMISSION	2,619,248
R08	WORKERS' COMPENSATION COMMISSION	2,619,159
H37	U S C - LANCASTER CAMPUS	2,563,720
L32	HOUSING FINANCE & DEVELOPMENT AUTH	2,544,834
R48	ALCOHOLIC BEVERAGE CONTROL COMMISSION	2,534,572
F24	B & C-HUMAN RESOURCE MANAGEMENT DIV	2,492,683
F08	B & C-RESEARCH AND STATISTICAL SERVICES DIV.	2,491,554
L12	JOHN DE LA HOWE SCHOOL	2,490,151
J20	COMMISSION ON ALCOHOL & DRUG ABUSE	2,417,820
F27	B & C-AUDITOR'S OFFICE	2,365,316
E16	STATE TREASURER'S OFFICE	2,230,291
H71	WIL LOU GRAY OPPORTUNITY SCHOOL	2,219,570
H36	U S C - BEAUFORT CAMPUS	2,048,587
P08	LAND RESOURCES CONSERVATION COMMISSION	2,045,231
H95	MUSEUM COMMISSION	1,958,939
H38	U S C - SALKEHATCHIE CAMPUS	1,777,681
E21	PROSECUTION COORDINATION COMMISSION	1,764,893
F14	B & C-FIRE MARSHAL'S OFFICE	1,667,525
P25	COASTAL COUNCIL	1,616,950
H53	CONSORTIUM OF COMM. TEACHING HOSPITALS	1,532,984
L36	HUMAN AFFAIRS COMMISSION	1,462,649
H03	COMMISSION ON HIGHER EDUCATION	1,442,992
P36	PATRIOTS POINT DEVELOPMENT AUTHORITY	1,378,149
A15	LEG. DEPT-CODIFICATION OF LAWS & LEG COUNCIL	1,371,248
L28	COMMISSION ON AGING	1,300,714
H87	STATE LIBRARY	1,294,762
R28	DEPARTMENT OF CONSUMER AFFAIRS	1,289,033
X40	AERONAUTICS COMMISSION	1,286,541
H91	ARTS COMMISSION	1,227,997
D05	GOVERNOR'S OFF-EXECUTIVE CONTROL OF STATE	1,101,784
H40	U S C - UNION CAMPUS	1,010,126
F06	B & C-STATE BUDGET DIVISION	1,009,192
S36	REAL ESTATE COMMISSION	946,667
F16	B & C-MOTOR VEHICLE MANAGEMENT DIVISION	845,526
E08	SECRETARY OF STATE	836,663
A20	LEG. DEPT-LEG AUDIT COUNCIL	725,232
R24	FINANCIAL INST BD-BANK EXAMINING DIVISION	710,359
R16	SECOND INJURY FUND	675,222
F02	B & C-OFFICE OF EXECUTIVE DIRECTOR	602,652
A17	LEG. DEPT-LEG PRINTING & INF. TECH. RES.	599,384
L16	CHILDREN'S FOSTER CARE REVIEW BOARD SYSTEM	587,235
A27	REORGANIZATION COMMISSION	586,884

06311

06/04/93
13:34:12

TOTAL PERSONAL SERVICE BY AGENCY
FOR: FREE CONFERENCE

PGM: AAP746NP
PAGE: 3

AGENCY #	AGENCY NAME	TOTAL AMT OF PERSONAL SERVICE
S40	RESIDENTIAL HOME BUILDERS COMMISSION	531,479
P26	SEA GRANT CONSORTIUM	502,075
L40	DEPARTMENT OF VETERANS AFFAIRS	494,985
E22	COMMISSION ON APPELLATE DEFENSE	494,826
S04	BOARD OF MEDICAL EXAMINERS	464,316
E28	ELECTION COMMISSION	459,359
S08	BOARD OF NURSING	452,752
A25	LEG. DEPT-LEG INFORMATION SYSTEMS	444,026
F26	B & C-LOCAL GOVERNMENT DIVISION	412,112
R25	FINANCIAL INST BD-CONSUMER FINANCE DIVISION	319,624
R92	BOARD OF ENGINEERS AND LAND SURVEYORS	295,424
P40	SAVANNAH VALLEY AUTHORITY	274,146
R52	ETHICS COMMISSION	273,099
R84	BOARD OF COSMETOLOGY	229,459
R82	CONTRACTORS' LICENSING BOARD	202,055
S20	BOARD OF PHARMACY	201,052
F28	B & C-BOARD OF ECONOMIC ADVISORS	182,480
R88	BOARD OF DENTISTRY	175,007
E04	LIEUTENANT GOVERNOR'S OFFICE	165,061
A28	ADV. COMM. ON INTERGOVERNMENTAL RELATIONS	163,272
R94	ENVIRONMENTAL CERTIFICATION BOARD	159,598
P33	ECONOMIC DEVELOPMENT COORD COUNCIL	148,950
H06	HIGHER EDUCATION TUITION GRANTS COMMISSION	143,083
R64	BOARD OF ACCOUNTANCY	141,552
S58	POLA MANAGEMENT DIVISION	141,036
D20	GOVERNOR'S OFF-MANSION AND GROUNDS	137,442
R68	BOARD OF ARCHITECTURAL EXAMINERS	125,961
F30	B & C-EMPLOYEE BENEFITS	124,085
R14	PATIENTS' COMPENSATION FUND	118,908
H83	CONFEDERATE RELIC ROOM AND MUSEUM	117,969
R72	BOARD OF BARBER EXAMINERS	116,277
A10	LEG. DEPT-SPECIAL SERVICES FOR BOTH HOUSES	107,879
P34	JOBS-ECONOMIC DEVELOPMENT AUTHORITY	96,968
N24	LAW ENFORCEMENT OFFICERS HALL OF FAME COMM	88,812
R69	AUCTIONEERS' COMMISSION	78,324
S60	PROCUREMENT REVIEW PANEL	77,605
E23	COMMISSION ON INDIGENT DEFENSE	66,637
B06	SENTENCING GUIDELINES COMMISSION	65,098
R99	BOARD OF FUNERAL SERVICE	55,461
L44	COMMISSION ON WOMEN	48,030
S24	BOARD OF PHYSICAL THERAPY EXAMINERS	45,510
S30	BOARD OF PROF. COUNSELORS & THERAPISTS	37,050
R80	BOARD OF CHIROPRACTIC EXAMINERS	35,144
S32	BOARD OF PSYCHOLOGY EXAMINERS	33,744
R23	FINANCIAL INST BD-ADMINISTRATION	23,933
P22	MIGRATORY WATERFOWL COMMITTEE	18,652
S'7	BOARD OF OPTICIANRY EXAMINERS	17,738
F48	OLD EXCHANGE BUILDING COMMISSION	1,500

06312

06/04/93
13:34:12

TOTAL PERSONAL SERVICE BY AGENCY
FOR: FREE CONFERENCE

PGM: AAP746NP
PAGE: 4

AGENCY #	AGENCY NAME	TOTAL AMT OF PERSONAL SERVICE
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** TOTAL PERSONAL SERVICE FOR STATE **		2,105,882,072

EXHIBIT

JUN 29 1993 7

STATE BUDGET & CONTROL BOARD

06313

STATE OF SOUTH CAROLINA
State Budget and Control Board
STATE BUDGET DIVISION

CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

EDGAR BROWN BUILDING, SUITE 525
1205 PENDLETON STREET
COLUMBIA, SOUTH CAROLINA 29201
(803) 734-2280

CHARLES A. BROOKS, JR.
DIVISION DIRECTOR

June 29, 1993

EXHIBIT

JUN 29 1993

7

STATE BUDGET & CONTROL BOARD

To: Agency Directors

From: Charles A. Brooks, Jr. *CAB*

Subject: Changes in Authorization and Processing Budget Transfers

On June 29, 1993, the Budget and Control Board adopted the following policy for Appropriation Transfers effective July 1, 1993 for FY 1993-94, in accordance with Provisos 129.13 and 1A.1 contained in the FY 1993-94 Appropriation Act.

Agencies may transfer appropriations as needed within and between programs provided that no other rule or law prohibits such transfer with the exceptions listed below.

- 1) Transfer between programs may not exceed 20% of a program budget.
- 2) Any transfer from Personal Service to other budget codes must be approved by the State Budget Division, with a yearly limit not to exceed \$50,000 or 1% of total Personal Service budget, whichever is greater. Requests to exceed this limit would require the approval of the Budget and Control Board. The State Budget Division will transfer other operating or other budget codes to Personal Service as needed. Any significant amounts need to show evidence of the ability of the agency to annualize the amount involved, and such transfers have to be fully justified and explained.
- 3) Appropriation transfers which may be necessitated by the Appropriation Act and/or reduction transfers which may be a result of Budget and Control Board actions will be managed and approved by the State Budget Division as is current practice.

06314

Agency Directors
June 29, 1993
Page Two

- 4) Transfers involving cash only transactions will no longer be processed through the State Budget Division but should be sent directly to the Comptroller General's Office.
- 5) Carry forwards from FY 1992-93 into FY 1993-94 will continue to be processed through the State Budget Division in accordance with the year-end requirements of the Comptroller General for FY 1992-93.
- 6) Agencies making transfers as outlined above, not receiving State Budget Division or other Board approval, are required to notify the Comptroller General's Office for proper accounting in whatever format that office may stipulate and must notify, by copy, the State Budget Division. Notification to State Budget Division of "cash only" transfers is not required.

CC: Agency Finance Officers

EXHIBIT

JUN 29 1993

7

STATE BUDGET & CONTROL BOARD

06315

EXHIBIT

JUN 29 1993

8

STATE BUDGET AND CONTROL BOARD
MEETING OF June 29, 1993

STATE BUDGET & CONTROL BOARD
REGULAR SESSION

ITEM NUMBER 2

AGENCY: State Treasurer

SUBJECT: Bond Counsel Selection

Board approval of the following bond counsel is requested:

- A. The Citadel: First of four projects being undertaken to replace four existing barracks facilities. Student and Faculty Housing Revenue Bonds or some other form of revenue bonds will be issued to fund the project. The estimated amount to be borrowed is \$12,000,000.
- (1) Nelson, Mullins, Riley and Scarborough; and
(2) Sinkler & Boyd, P.A.
- B. SC Educational Television Commission: An amount up to \$7,000,000 to purchase equipment for ETV facility via third-party financing.
- (1) McNair & Sanford, P.A.
(2) Sinkler & Boyd, P.A.

BOARD ACTION REQUESTED:

Approve the selection of the following law firms to provide bond counsel services:

- A. The Citadel, for the first of four projects being undertaken to replace four existing barracks facility, Student and Faculty Housing Revenue Bonds or some other form of revenue bonds, estimated amount \$12,000,000: Nelson, Mullins, Riley and Scarborough; and
- B. SC Educational Television Commission, an amount up to \$7,000 for equipment for ETV facility via third-party financing: McNair & Sanford, P.A.

ATTACHMENTS:

Huey June 22 letter; attachments

06316

STATE OF SOUTH CAROLINA

OFFICE OF STATE TREASURER

GRADY L. PATTERSON, JR.
STATE TREASURER



P. O. DRAWER 11778

COLUMBIA
29211

June 22, 1993

Ms. Donna Williams
Office of Executive Director
State Budget and Control Board
Post Office Box 12444
Columbia, South Carolina 29211

Dear Donna:

The attached requests for approval of bond counsel for The Citadel, and The South Carolina Educational Television Commission, have been received by the State Treasurer's Office and need to be placed on the Agenda for consideration by the Budget and Control Board at its next meeting.

Once a determination has been made by the Board, we will notify the requesting agencies of the Board's decision.

If you need any further information, please feel free to call me.

Very truly yours,

A handwritten signature in cursive script, reading "Sandy".

Sandy Agee Huey
Deputy State Treasurer

SAH:hrh
Enclosure

66317

Attachment - 06/22/93

The following requests for assignment of bond counsel on proposed revenue issues have been received by the State Treasurer's Office and are in a position to be considered by the Budget and Control Board.

Agency	Approximate Size of Proposed Issue	Attorney Recommendation by Order of Preference
The Citadel	This is the first of four projects being undertaken to replace the four existing Barracks Facilities. Student & Faculty Housing Revenue Bonds or some other form of revenue bonds will be issued to fund this project. The estimated amount being borrowed is \$12,000,000.00	Nelson, Mullins, Riley and Scarborough Sinkler & Boyd, P. A.
SC Educational Television Commission	An amount up to \$7,000,000.00; Equipment for ETV Facility, via third party financing.	McNair & Sanford, P. A. Sinkler & Boyd, P. A.

06318

EXHIBIT
JUN 29 1993
8
STATE BUDGET & CONTROL BOARD

REQUEST FOR ASSIGNMENT OF BOND COUNSEL

FROM: South Carolina Educational Television Commission

TO: Grady L. Patterson, Jr., State Treasurer

DATE: June 21, 1993

SUBJECT: REQUEST FOR ASSIGNMENT OF BOND COUNSEL

EXHIBIT

JUN 29 1993

8

STATE BUDGET & CONTROL BOARD

Any agency, department or institution contemplating a debt issue must immediately contact the State Treasurer's Office who will work with them in obtaining assignment of bond counsel pursuant to State Budget and Control Board directives.

DESCRIPTION OF DEBT ISSUE: Approximately \$7 million; equipment for ETV facility, via third party financing.

The recommendation of bond counsel proposed by order of preference is as follows:

1. McNair & Sanford, P.A.

NAME OF FIRM

2. Sinkler & Boyd, P.A.

NAME OF FIRM

SUBMITTED BY:

Charles M. Carr VP Admin

SIGNATURE/TITLE

ON

6/21/93

DATE

FOR STATE BUDGET AND CONTROL BOARD USE ONLY:

BOND COUNSEL APPROVED:

McNair & Sanford, P.A.

FIRM

ON

6/28/93

DATE

CERTIFIED BY:

Donna K. Williams

FOR STATE BUDGET AND CONTROL BOARD

ON

6/28/93

DATE

FOR STATE TREASURER'S OFFICE USE ONLY:

Notification given to agency/institution by the State Treasurer's

Office on

DATE

by

(NAME/TITLE)

NO/BC-2

06319

REQUEST FOR ASSIGNMENT OF BOND COUNSEL

FROM: The Citadel

TO: Grady L. Patterson, Jr., State Treasurer

DATE: 3 June 1993

EXHIBIT

JUN 29 1993

8

SUBJECT: REQUEST FOR ASSIGNMENT OF BOND COUNSEL STATE BUDGET & CONTROL BOARD

Any agency, department or institution contemplating a debt issue must immediately contact the State Treasurer's Office who will work with them in obtaining assignment of bond counsel pursuant to State Budget and Control Board directives.

DESCRIPTION OF DEBT ISSUE: \$12 million Revenue Bond

The recommendation of bond counsel proposed by order of preference is as follows:

1. Nelson, Mullins, Riley and Scarborough
NAME OF FIRM

2. Sinkler and Boyd

NAME OF FIRM

SUBMITTED BY:

Calvin G. Lyons
SIGNATURE/TITLEON 3 June 1993
DATECalvin G. Lyons
Colonel, USA, Ret.

Vice President for Finance and Business Affairs

FOR STATE BUDGET AND CONTROL BOARD USE ONLY:

BOND COUNSEL APPROVED: Nelson Mullins Riley + Scarborough ON 6/28/93
FIRM DATECERTIFIED BY: Alexandra H. Freeman ON 6/28/93
FOR STATE BUDGET AND CONTROL BOARD DATE

FOR STATE TREASURER'S OFFICE USE ONLY:

Notification given to agency/institution by the State Treasurer's

Office on _____ by _____
DATE (NAME/TITLE)

STO/BC-2

06320

EXHIBIT

JUN 29 1993

9

STATE BUDGET AND CONTROL BOARD

MEETING OF June 29, 1993

STATE BUDGET & CONTROL BOARD
REGULAR SESSION

ITEM NUMBER

3

AGENCY: General Services

SUBJECT: Student Housing, Lander University

Regulation 19-445.2121 requires that leases which commit \$1,000,000 or more in a five-year period be approved by the Budget and Control Board and reviewed by the Joint Bond Review Committee.

Lander University proposes to lease Buildings B and C of the Greenwood High Apartments at 835 South Main Street in Greenwood for use as student housing. Buildings B and C together contain 44 one-bedroom apartments, 18 two-bedroom apartments, and a central laundry facility.

The initial period of the lease will be for three years commencing on August 1, 1993, and ending on July 31, 1996, with an option to extend the lease for two additional years. The annual amount of the lease payment is \$230,000 based on \$285 per month for one-bedroom apartments and \$370 per month for two-bedroom apartments. The amount of the annual lease payment will remain constant for the initial period of the lease as well as any extension.

The University stresses the importance of finding one facility that could meet its needs (150-200 beds) and which will allow the University to provide some security and control of the student housing.

Property Management has worked with Lander in negotiating the lease. The University Board of Trustees has approved the University's entering into the lease, and the University has submitted a financial plan for the lease. Adequate funds are available for the lease and no state general funds will be required.

Lease terms and conditions were negotiated in accordance with the State standard lease document and Property Management is of the opinion that the terms are fair.

BOARD ACTION REQUESTED:

Authorize Lander University to enter into a three-year lease (August 1, 1993 through July 31, 1996) of Buildings B and C of the Greenwood High Apartments at 835 South Main Street in Greenwood, with an option to extend the lease for two additional years and with an annual lease payment of \$230,000.

ATTACHMENTS:

Agenda item worksheet; Code Section 11-35-1590

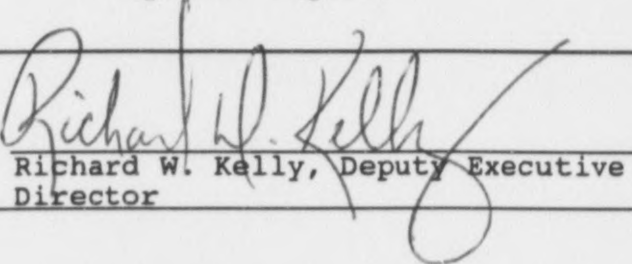
06321

BUDGET AND CONTROL BOARD AGENDA ITEM WORK SHEET

Meeting Scheduled for: June 29, 1993

Agenda: Regular

1. Submitted By:
(a) Agency: Division of General Services
(b) Authorized Official Signature:


Richard W. Kelly, Deputy Executive
Director

2. Subject:
Lease of Apartments for Student Housing - Lander University

3. Summary Background Information:

Regulation 19-445.2121 requires that leases which commit 1 million dollars or more in a five year period be approved by the Budget and Control Board and reviewed by the Joint Bond Review Committee.

Lander University is proposing to lease Buildings B and C of the Greenwood High Apartments at 835 South Main Street in Greenwood, S. C., for use as student housing. Buildings B and C together contain 44 one-bedroom apartments, 18 two-bedroom apartments and a central laundry facility. The initial period of the lease will be for three years commencing on August 1, 1993, and ending on July 31, 1996, with an option to extend the lease for two additional years. The annual amount of the lease payment is \$230,000.00 based on \$285/month for one-bedroom apartments and \$370.00/month for two-bedroom apartments. The amount of the annual lease payment will remain constant for the initial period of the lease as well as any extension. It is important to the University that it find one facility that could meet its need (150-200 beds) so that some security and control of the student housing would be possible and not have students at various locations throughout the city.

Property Management has worked with the agency in negotiating this lease. The Lander University Board of Trustees has approved the University's entering into this lease. The University has submitted a financial plan for the lease. Adequate funds are available for the lease payment and no state general funds will be required. The lease terms and conditions were negotiated in accordance with the state standard lease document and Property Management is of the opinion that the terms are fair.

4. What is the Board asked to do?
Approve this lease.

5. What is the recommendation of General Services?
Approve.

6. Recommendation of other Division/agency (as required)?
(a) Authorized Signature:
(b) Division/Agency Name:

7. List of Supporting Documents:
(a) List those attached:
1. SC Code 11-35-1590
(b) List those available but not attached:
1. Regulation 19-445.2121

06322

§ 11-35-1590. Leasing of real property for governmental bodies.

(1) *Designation of Board as Single Central Broker.* The board is hereby designated as the single central broker for the leasing of real property for governmental bodies. No governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this Section.

(2) *Notification as to Need When State-Owned Property is Unavailable.* When any governmental body needs to acquire real property for its operations or any part thereof and state-owned property is not available, it shall notify the Division of General Services of its requirement on rental request forms prepared by the division. Such forms shall indicate the amount and location of space desired, the purpose for which it shall be used, the proposed date of occupancy and such other information as the division may require.

Upon receipt of any such request, the division shall conduct an investigation of available rental space which would adequately meet the governmental body's requirements, including specific locations which may be suggested and preferred by the governmental body concerned. When suitable space has been located which the governmental body and the division agree meets necessary requirements and standards for state leasing as prescribed in regulations of the board as provided for in subsection (3) of this Section, the division shall give its written approval to the governmental body to enter into a lease agreement. In the event the governmental body and the division fail to reach agreement with regard to the appropriate property for leasing, the controversy shall be referred to the board which shall make a final determination of the matter. All proposed lease renewals shall be submitted to the division by the time specified by the division.

(3) *Promulgation of Regulations.* The board shall promulgate regulations to implement the provisions of this Section which shall include:

- (a) Procedures for governmental bodies to apply for rental space.
- (b) Flexible cost standards for rental space.
- (c) Procedures for competitive bidding where feasible.

HISTORY: 1981 Act No. 148, § 1.

~~Cross references—~~

As to provisions of this section constituting exception to requirements governing competitive sealed bidding in § 11-35-1520, see § 11-35-1510.

~~Research and Practice References—~~

64 Am Jur 2d, Public Works and Contracts § 45.

EXHIBIT

JUN 29 1993

9

STATE BUDGET & CONTROL BOARD

06323

EXHIBIT

JUN 29 1993

10

STATE BUDGET AND CONTROL BOARD
MEETING OF June 29, 1993

STATE BUDGET & CONTROL BOARD
REGULAR SESSION

ITEM NUMBER

4

AGENCY: General Services

SUBJECT: Waiver of Environmental Audit, Manchester State Forest

The Norfolk Southern Railroad has agreed to pay all costs associated with a property exchange with the Forestry Commission whereby the Railroad will convey an abandoned right-of-way (33.1 acres; 100' x 3.1 miles) in exchange for a 3.48-acre easement for the construction of a connector line at Foxville Junction in Sumter County. All costs have been identified with the exception of the costs of the environmental study on the abandoned right-of-way to be acquired by the Forestry Commission.

The railroad has been in place since 1845 and runs through a portion of Manchester Forest. Due to the configuration of the property and the fact that it is surrounded by State Forest, the Forestry Commission asks that the Board waive the requirement for an environmental audit for this transaction. If the Board waives the requirement, all costs associated with the transaction will be known and the Commission and Norfolk Southern can enter into the final agreement.

The Division recommends approval of the request based on the unusual configuration of the parcel and the unlikelihood that it would be able to procure an accurate environmental study in that area.

BOARD ACTION REQUESTED:

Waive the requirement for an environmental audit in the acquisition of a 100' x 3.1 mile abandoned railroad right-of-way through Manchester State Forest from Norfolk Southern Railroad by the Forestry Commission, as recommended by the Division of General Services.

ATTACHMENTS:

Agenda item worksheet; Ryan June 15 letter; Taylor June 17 memo

06324

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: June 29, 1993

Regular Agenda

1. Submitted By:

(a) Agency: Division of General Services

(b) Authorized Official Signature: Richard W. Kelly

Richard W. Kelly

2. Subject:

Request for waiver of environmental requirement at Manchester State Forest.

3. Summary Background Information:

Norfolk Southern Railroad has agreed to pay all costs associated with a property exchange with the Forestry Commission whereby the Railroad will convey an abandoned right of way, 33.1 acres, (100' x 3.1 miles) in exchange for a 3.48 acre easement for the construction of a connector line at Foxville Junction in Sumter County. All costs have been identified with the exception of the costs of the environmental study on the abandoned right of way that the Forestry Commission will be acquiring. This railroad has been in place since 1845 and runs through a portion of Manchester Forest. Due to the configuration of the property and the fact that it is surrounded by State Forest, the Commission is asking that the Board waive the environmental requirement of this particular transaction. The result will be that all costs associated with the transaction will then be known and the Commission and Norfolk Southern can enter into their final agreement. General Services is in agreement with this request based on the unusual configuration of the parcel and unlikelihood of being able to procure an accurate environmental study in this area.

4. What is Board asked to do?

Waive the environmental requirement on the acquisition of a 100' x 3.1 mile abandoned railroad right of way by the Forestry Commission through Manchester State Forest.

5. What is recommendation of Board Division involved?

Approve

6. Recommendation of other Division/agency (as required)?

(a) Authorized Signature: _____

(b) Division/Agency Name: _____

7. List of Supporting Documents:

1. Letter from agency
2. Memo from General Services

EXHIBIT

JUN 29 1993

101

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06325



SOUTH CAROLINA FORESTRY COMMISSION
PO Box 21707 • Columbia, South Carolina 29221
(803) 737-8800, FAX (803) 798-8097
J. Hugh Ryan, State Forester

June 15, 1993

Mr. Bruce Taylor
Property Management Division
S. C. Budget and Control Board
1201 Main Street, Suite 420
Columbia, SC 29201

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JUN 29 1993 10

STATE BUDGET & CONTROL BOARD

Dear Mr. Taylor:

This is in reference to the acquisition of approximately thirty three and one tenth (33.1) acres of land by the SC Forestry Commission from Norfolk Southern Railway Corporation.

This land is in Sumter County and is surrounded by lands presently owned by the Forestry Commission and operated as Manchester State Forest. The land extends from Foxville Junction near Wedgefield, SC southwest across Manchester State Forest toward the Wateree River. It consists of a one hundred (100) foot right of way easement which is three and one tenth (3.1) miles in length. An active rail line has been maintained and operated on this land since 1845. All easements owned by Norfolk Southern or its predecessors precede ownership of the land by the Forestry Commission by one hundred and ten years.

Norfolk Southern Railway Corporation has petitioned the ICC for permission to discontinue operation of the rail line described above. To replace this line Norfolk Southern will construct a connector line between their main line and the main line of CSX Transportation Company at Foxville Junction. Contingent on approval of the petition, Norfolk Southern has requested that the Forestry Commission grant a three and forty eight one hundredths (3.48) acre easement for the construction of the connector line.

In exchange for the easement, Norfolk Southern will provide to the Forestry Commission a quitclaim deed for all portions of the abandoned right-of-way which are adjacent to Manchester State Forest. As mentioned above, the total acreage of the abandoned right-of-way will be thirty three and one tenth (33.1) acres. The Forestry Commission will utilize this land for public recreation and access to the Wateree Swamp if the land is obtained. Norfolk Southern will remove all tracks and cross ties from the right-of-way prior to the transfer to facilitate its use for hiking and bike riding. The wooden trestles will be left in place to allow access to the entire area.

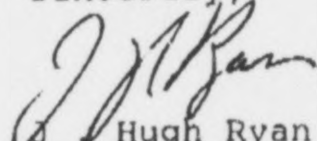
06326

The physical description and historical use of this land point out the uniqueness of this acquisition. These features make it impractical if not impossible to complete an environmental assessment of the land at a feasible cost. The actual width of the land (100 feet) versus its length (3.1 miles) indicate that the land to be acquired and the adjacent land already owned by the Forestry Commission are decidedly similar.

The Forestry Commission is requesting that all Environmental Policies of the Budget and Control Board relating to land acquisitions be waived for this transaction. This action by the Board will enable the Forestry Commission to obtain thirty three (33) acres of land for public recreation at little or no cost to the State.

Thank you for your assistance and prompt attention to this matter. If you have further questions or need additional information please contact me.

Sincerely,



Hugh Ryan
State Forester

EXHIBIT

JUN 29 1993

10

STATE BUDGET & CONTROL BOARD

06327

STATE OF SOUTH CAROLINA
State Budget and Control Board
DIVISION OF GENERAL SERVICES



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EXECUTIVE DIRECTOR

TO: Hugh Ryan, State Forester
S.C. Forestry Commission

FROM: Bruce Taylor, Executive Manager
Division of General Services

SUBJECT: Acquisition of 33 acres more or less in Manchester State
Forest

DATE: June 17, 1993

Due to the configuration (100 ft. x 3.1 miles) of the 33 acres to be acquired from Norfolk Southern Railway, I am in general agreement with recommending to the B&C Board and the JBRC that the environmental audit be waived.

I suppose it is possible that some hazardous materials carried by rail could have leaked from railcars and contaminated the ground between the rails etc. How much of a concern that should be, I'm not sure but I will check with some environmental consultants by phone to try to get a feel for it. If it turns out that the risk from this type exposure is minimal, I see no reason to not recommend that the environmental audit be waived. Please bear in mind that this is a Board policy and they will make the final determination on waiving this requirement.

If you have any questions, please call.

EXHIBIT

JUN 29 1993

10

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06328