

MINUTES OF
BUDGET AND CONTROL BOARD
MEETING

January 10, 1995

003E97

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

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995

MEMORANDUM

TO: Budget and Control Board, Office Directors
FROM: Donna Kaminer Williams, Board Secretary
SUBJECT: Summary of Board Actions at January 10, 1995, 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 regular session #1A, relating to bond counsel selection for the Department of Commerce, and executive session #2, relating to agency head compensation;
2. Approved the minutes of the December 13, 1994, Budget and Control Board meeting;
3. Received as information a report that the State Treasurer's Office has been advised of the following bond counsel assignment in Jobs-Economic Development Authority conduit issue: Drake Molding Corporation project, Ms. Carol L. Clark of Haynsworth, Marion, McKay and Guerard;
4. Received as information a report that, acting in accord with the provisions of Code Section 1-11-500, the Board Secretary has calculated and certified the state ceiling on the issuance of private activity bonds for calendar year 1995 to be \$183,200,000;

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5. Adopted a resolution approving the Aiken County proposal to issue \$650,000 Hospital Revenue Bonds on behalf of the Aiken County Commission on Alcohol and Drug Abuse, d/b/a Aiken Center for Alcohol and Other Drug Services project;

6. Adopted resolutions approving the private sale of Economic Development Revenue Bonds by the Jobs-Economic Development Authority for the following projects; and allocated a portion of the state ceiling to each project:

- | | | |
|-----|--------------------|---|
| (a) | Name of Project: | EuroKera North America, Inc. |
| | Location: | Greenville County |
| | Principal Amount: | \$9,000,000 |
| | Allocation Amount: | \$9,000,000 |
| | Employment Impact: | approximately 30 within 12 months; 20 more within 24 months |
| | Purpose: | decorating and ceraming glass cooktops for the appliance industry |
| (b) | Name of Project: | Herrenknecht Corporation |
| | Location: | Spartanburg County |
| | Principal Amount: | \$2,000,000 |
| | Allocation Amount: | \$2,000,000 |
| | Employment Impact: | approximately 4 within 12 months and 14 within 24 months |
| | Purpose: | manufacture of component parts for tunnelling systems |
| (c) | Name of Project: | Venture Packaging, Inc. |
| | Location: | Anderson County |
| | Principal Amount: | \$9,500,000 |
| | Allocation Amount: | \$9,500,000 |
| | Employment Impact: | approximately 80 within 12 months and 100 within 24 months |
| | Purpose: | manufacture plastic products |

7. In accord with Code Section 1-11-65, authorized the Clemson University Board of Trustees to sell the 251.23± acres of land, known as the Old Pee Dee Station located in the City of Florence, for not less than \$1,442,500, and to place the proceeds in an endowment fund with the income to be used to support research programs at the Pee Dee Research and Education Center;

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

- | | | |
|-----|-----------------------|--|
| (a) | County Location: | Greenville |
| | From: | Budget and Control Board |
| | To: | Western Carolina Regional Sewer Authority |
| | Description/ Purpose: | To install sewer pipelines beneath the Enoree River (1st crossing) |
| | Consideration: | \$0- |

- | | | |
|-----|-----------------------|--|
| (b) | County Location: | Greenville |
| | From: | Budget and Control Board |
| | To: | Western Carolina Regional Sewer Authority |
| | Description/ Purpose: | To install sewer pipelines beneath the Enoree River (2nd crossing) |
| | Consideration: | \$-0- |

- | | | |
|-----|-----------------------|--|
| (c) | County Location: | Greenville |
| | From: | Budget and Control Board |
| | To: | Western Carolina Regional Sewer Authority |
| | Description/ Purpose: | To install sewer pipelines beneath the Enoree River (3rd crossing) |
| | Consideration: | \$0- |

9. Concurred and acquiesced in the granting of the following easement in accord with § 10-1-130:

- | | |
|-----------------------|--|
| County Location: | Jasper |
| From: | Mental Health |
| To: | South Carolina Electric & Gas |
| Description/ Purpose: | For a tract of land at or near the intersection of SC Highway 278 and SC Road S-27-362 |
| Consideration: | \$1 |

10. Unanimously adopted the following resolutions:

- (a) To Governor Carroll A. Campbell, Jr., commending him and thanking him for his many valuable contributions to the work of the Board over the years and extending to him deep appreciation for his years of service to South Carolina and best wishes for every success in his future endeavors;

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- (b) To State Treasurer Grady L. Patterson, Jr., recognizing, commending, and extending to this good and decent gentleman of the South its deep appreciation for his many years of distinguished public service; and
 - (c) To Representative William D. Boan, recognizing and commending the dedicated service to South Carolina, and expressing appreciation to him for his years of leadership as a member of the Board;
11. Observed Governor Campbell present the Order of the Palmetto to State Treasurer Grady L. Patterson, Jr.;
 12. Approved the selection of the McNair & Sanford law firm to provide bond counsel services for the Department of Commerce, authorized note from Insurance Reserve Fund for infrastructure at Savannah Lakes Village;
 13. Determined that a potential deficit of \$94,296 for 1994-95 in the Office of Appellate Defense is unavoidable due to factors wholly outside of the agency's control, recognized the potential deficit, and notified the General Assembly of the Board's findings;
 14. Approved the revisions to existing rules and regulations concerning the State Employee Grievance Process for submission to the General Assembly;
 15. Authorized the Department of Mental Health to extend its existing leave and tuition support program for its employees to participate in the Associate Degree in Nursing (ADN) Program at technical college campuses statewide; and authorized the Office of Human Resources to review and renew future Mental Health Department requests for extensions of this program beyond 1998;
 16. Authorized the Department of Parks, Recreation and Tourism to accept the donation of approximately 268 acres in York and Cherokee Counties adjoining Kings Mountain State Park, contingent approval of the Joint Bond Review Committee;
 17. Received as information a report from the Department of Commerce relating to the Lakeside at Russell project with the understanding that the Department will present the proposal to new Budget and Control Board members and legislative delegations; and agreed to consider the matter further at the February 14 Board meeting;

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18. In accord with the provisions of Code Section 11-35-710, exempted the Department of Health and Environmental Control from the requirements of the Consolidated Procurement Code for all contracts for home health services, on the condition that a written certification that this exemption will not adversely affect the Medicaid reform waivers is received from the Health and Human Services Finance Commission;
19. In accord with the provisions of Regulation 19-445.2135(D), granted the Office of General Services authority to exceed the five-year period in the award of a contract for the Department of Transportation logo signing program, if General Services determines that exceeding the five-year period is in the best interest of the State;
20. With Mr. Patterson abstaining from the vote, authorized the sale of a 1991 Mercury Marquis at the appraised value of \$5,125 with a total sale price of \$5,381.25, including tax, to State Treasurer Grady L. Patterson, Jr. when he leaves office;
21. Approved a grant of \$250,000 from the Infrastructure Grant Revolving Fund for Georgetown County to assist in providing the water and sewer infrastructure to allow for major expansion and improvement at Huntington Beach State Park;
22. Agreed to meet at 9:30 a.m. on Tuesday, February 14, 1995, in the Governor's conference room in the State House;
23. Heard State Treasurer Patterson report that Standard & Poor's has advised of its intent to upgrade the State of South Carolina to Positive Outlook, with the effect that, once the fiscal year has ended (June 30, 1995) and the facts support current trends, South Carolina's AAA credit rating will be restored; and that Moody's and Fitch Investors Service rating services have continued to rate the State AAA;
24. Authorized the South Carolina Council on Vocational and Technical Education, the Commission on Higher Education, and Robert H. White to enter into a personnel settlement with Barbara S. Anderson; and
25. Authorized a salary of \$105,790 for Mr. James T. Clark as the Director of the Department of Social Services, contingent upon the concurrence of the Agency Head Salary Commission and the advice and consent of the Senate.

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MINUTES OF STATE BUDGET AND CONTROL BOARD MEETING

January 10, 1995

9:30 A. M.

The Budget and Control Board met at 9:30 a.m. on Tuesday, January 10, 1995, 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 Henry E. Brown, Jr., Chairman, Ways and Means Committee.

Also attending were Executive Director Luther F. Carter; Division 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; Board Secretary Donna Kaminer Williams; and other Board staff.

Welcome

Governor Campbell acknowledged the presence of Speaker of the House David H. Wilkins, previous Board member and member of the Ways and Means Committee Representative William D. Boan, and Representative Harry C. Stille and expressed his delight that they were attending the Board meeting.

Adoption of Agenda

Upon a motion by Mr. Morris, seconded by Senator Drummond, the Board adopted the agenda after adding regular session #1A, relating to bond counsel selection for the Department of Commerce, and executive session #2, relating to agency head compensation.

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Minutes of Previous Meeting

Board members previously had been furnished a draft version of the minutes of the December 13, 1994, Budget and Control Board meeting. Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board approved the referenced minutes as written.

Blue Agenda

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

State Treasurer's Office: Bond Counsel Assignment, Conduit Issues (Blue #1)

The Board received as information a report that the State Treasurer's Office has been advised of the following bond counsel assignment in Jobs-Economic Development Authority conduit issue: Drake Molding Corporation project, Ms. Carol L. Clark of Haynsworth, Marion, McKay and Guerard.

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

Executive Director: 1995 State Ceiling (Blue Agenda #2)

The Board was advised that, acting in accord with the provisions of Code Section 1-11-500, the Board Secretary has calculated and certified the state ceiling on the issuance of private activity bonds for calendar year 1995 to be \$183,200,000. The \$183,200,000 figure is derived by multiplying the most recent census estimate of the resident population of South Carolina published by the Bureau of the Census (3,664,000) by \$50. The Board also was advised that, in accord with Code Section 1-11-520, the state government pool is \$73,280,000 (40%) and the local pool is \$109,920,000 (60%).

The Board received the report as information.

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

Aiken County: Hospital Revenue Bonds (Blue Agenda #3)

The Board was advised that the required reviews on the following proposal to issue revenue bonds have been completed with satisfactory results, that the project requires approval under State law, and that an allocation of a portion of the Ceiling is not required:

Issuing Authority:	Aiken County
Amount of Issue:	\$650,000 Hospital Revenue Bonds
Allocation Amount:	-0-
Name of Project:	Aiken County Commission on Alcohol and Drug Abuse, d/b/a Aiken Center for Alcohol and Other Drug Services
Employment Impact:	n/a
Project Description:	defraying a portion of the costs of acquiring, renovating, upfitting, and improving office and substance abuse treatment facilities

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board adopted a resolution approving the Aiken County proposal to issue \$650,000 Hospital Revenue Bonds on behalf of the Aiken County Commission on Alcohol and Drug Abuse, d/b/a Aiken Center for Alcohol and Other Drug Substances.

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

Jobs-Economic Development Authority: Economic Development Bonds (Blue #4)

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board approved the private sale of Jobs-Economic Development Authority Economic Development Revenue Bonds for the following projects and allocated a portion of the State Ceiling to each:

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- | | |
|-----|--|
| (a) | Name of Project: EuroKera North America, Inc.
Location: Greenville County
Principal Amount: \$9,000,000
Allocation Amount: \$9,000,000
Employment Impact: approximately 30 within 12 months; 20 more within 24 months

Purpose: decorating and ceraming glass cooktops for the appliance industry

(Exhibit 4) |
| (b) | Name of Project: Herrenknecht Corporation
Location: Spartanburg County
Principal Amount: \$2,000,000
Allocation Amount: \$2,000,000
Employment Impact: approximately 4 within 12 months and 14 within 24 months

Purpose: manufacture of component parts for tunnelling systems

(Exhibit 5) |
| (c) | Name of Project: Venture Packaging, Inc.
Location: Anderson County
Principal Amount: \$9,500,000
Allocation Amount: \$9,500,000
Employment Impact: approximately 80 within 12 months and 100 within 24 months

Purpose: manufacture plastic products

(Exhibit 6) |

Information relating to this matter has been retained in these files and is identified as Exhibits 4 through 6, respectively.

General Services: Clemson Property Sale (Blue Agenda #5)

The Board was advised that the Clemson University Board of Trustees has determined that 251.23± acres of land, known as the Old Pee Dee Station, located in the City of Florence is no longer essential to the public service mission of the University. The Board of Trustees requests authorization to sell the property and place the proceeds

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in an endowment fund with the income to be used to support research programs at the Pee Dee Research and Education Center.

The Old Pee Dee Station was acquired through two purchases – a 150-acre tract was purchased in 1912 and a 100-acre tract was purchased in 1946 – and no unique state appropriations, capital improvement bonds, or formula funds were used for the purchases. An appraisal of the property indicated an estimated market value of \$1,442,500. Property Management has reviewed the appraisal and concurs with the estimated market value.

The Board was reminded that, when on July 15, 1986, it had exempted Clemson University real estate transactions involving agriculture experiment stations from surplus property procedures, it had not exempted those transactions from the requirements of Code Section 1-11-65.

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board, in accord with Code Section 1-11-65, authorized the Clemson University Board of Trustees to sell the 251.23± acres of land, known as the Old Pee Dee Station located in the City of Florence, for not less than \$1,442,500, and to place the proceeds in an endowment fund with the income to be used to support research programs at the Pee Dee Research and Education Center.

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

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

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- (a) County Location: Greenville
From: Budget and Control Board
To: Western Carolina Regional Sewer Authority
Description/ Purpose: To install sewer pipelines beneath the Enoree River (1st crossing)
Consideration: \$-0-
- (b) County Location: Greenville
From: Budget and Control Board
To: Western Carolina Regional Sewer Authority
Description/ Purpose: To install sewer pipelines beneath the Enoree River (2nd crossing)
Consideration: \$-0-
- (c) County Location: Greenville
From: Budget and Control Board
To: Western Carolina Regional Sewer Authority
Description/ Purpose: To install sewer pipelines beneath the Enoree River (3rd crossing)
Consideration: \$-0-

In this same motion, the Board concurred and acquiesced in the granting of the following easement in accord with § 10-1-130:

County Location: Jasper
From: Mental Health
To: South Carolina Electric & Gas
Description/ Purpose: For a tract of land at or near the intersection of SC Highway 278 and SC Road S-27-362
Consideration: \$1

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

Budget and Control Board: Resolutions (Regular Session #1)

At the meeting, Mr. Patterson read the following resolution and moved its adoption by the Board:

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WHEREAS, Carroll Ashmore Campbell, Jr., was elected to the South Carolina House of Representatives in 1971 and served in that body through 1974, holding the position of Assistant Minority Leader; and was elected to the South Carolina Senate in 1976 and served in that body through 1977; and

WHEREAS, he was elected to the United States Congress in 1978 and served the Fourth Congressional District in that body for eight years, the only sitting member who had served on both the Appropriations and the Ways and Means Committees; and

WHEREAS, he is the 112th person to occupy the Office of Governor of South Carolina, where he has served since his election to that Office in 1986, and the 10th person to serve as Chairman of the Budget and Control Board, and

WHEREAS, Governor Campbell's leadership role has been performed creatively and his ideas and judgments have significantly impacted the operation of the State government, all of South Carolina, and the nation in key and fundamental areas too numerous to list here; and

WHEREAS, in all of the key roles he has played on behalf of the State, Governor Campbell has served South Carolina with distinction; and

WHEREAS, today he is presiding over the last Board meeting to be held during his tenure as Governor and Chairman of the Board and the Board will miss this colleague who is "an exemplar of governing conservatism for the nation;"

NOW, THEREFORE, BE IT RESOLVED that, on the occasion of the departure of Governor Carroll A. Campbell, Jr., from public service as Governor and as Chairman of the Budget and Control Board, the Board commends and thanks Governor Campbell for his many valuable contributions to the work of this Board over the years and extends to him its deep appreciation for his years of service to South Carolina and its best wishes for every success in his future endeavors.

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FURTHER, the Board directs that this Resolution be presented to Governor Campbell and that a copy be retained among the Board's official records.

ADOPTED this tenth day of January, 1995, at Columbia.

Mr. Patterson's motion was seconded by Mr. Morris, and the resolution was adopted unanimously. He then presented the framed resolution to Governor Campbell and the assembly responded with a standing ovation.

Governor Campbell expressed his enjoyment in working with the members of the Board through the years. He said that, though the membership has changed through those years, the Board has always worked most responsibly for the State of South Carolina and he is proud to have had the opportunity to chair the Board. He said that, while he may not miss some of the issues that come before the Board, he will miss the opportunity to meet with the Board. He also expressed his appreciation to the staff of the Board which he said is as fine as exists anywhere in the country.

Governor Campbell then read the following resolution:

WHEREAS, Grady Leslie Patterson, Jr., Abbeville County native, attended public schools in Calhoun Falls, attended Clemson University, received a B.S. Degree from the University of South Carolina and an L.L.B. (Juris Doctor) Degree from the USC Law School in 1950;

WHEREAS, he served the country as a fighter pilot in World War II, flying combat from Iwo Jima in the Pacific; was called to active duty during the Korean War; and, during the Berlin Crisis served as a jet fighter pilot in Spain; and was awarded the Distinguished Service Medal upon his retirement after 41 years of service in the Air National Guard; and

WHEREAS, he became an employee of the State of South Carolina in January of 1959 as an Assistant Attorney General, where he served for more than seven and one-half years representing various State agencies;

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WHEREAS, Grady Leslie Patterson, Jr., was elected State Treasurer on November 8, 1966, and in that capacity has served the people of South Carolina faithfully, creatively, energetically and compassionately for twenty-eight years, leading the country in stopping the federal government from imposing taxes on state and municipal bonds, prepared and supported the passage of legislation to require secondary market disclosure for state and municipal bonds, initiating constitutional amendments to strengthen the State's fiscal position; and

WHEREAS, his intricate knowledge of the work of State government and his measured, ethical, and competent approach to public management have been of inestimable value to the Board and to other agencies of state government; and

WHEREAS, the Board notes with regret that his reasoned and thoughtful ways of solving large and small problems within the State government will be gone and that his departure will reduce significantly the institutional memory of the entire State government;

NOW, THEREFORE, BE IT RESOLVED that the State Budget and Control Board, acting for itself and on behalf of the people of South Carolina, recognizes, commends and extends to this good and decent gentleman of the South its deep appreciation for his many years of distinguished public service.

FURTHER, the Board directs that a copy of this Resolution be presented to Mr. Patterson and that a copy be retained among the Board's official records.

ADOPTED this tenth day of January, 1995, at Columbia.

Upon a motion by Senator Drummond, seconded by Mr. Morris, the Board unanimously adopted the resolution.

Governor Campbell then presented the framed resolution to Mr. Patterson and expressed his great appreciation for having had the opportunity to serve with him on the Board. The assembly responded with a standing ovation.

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Mr. Patterson said that, of all his service, none has been more enjoyable than his service on the Board which he said is unique in the nation. He said the Board serves the people of the State in a practical and pragmatic way. He again expressed his appreciation for the great honor and privilege of serving with such a great leader as Governor Campbell and with the other Board members over the years.

WHEREAS, William Daniel Boan, first elected to the South Carolina House of Representatives in 1983, has served the citizens of House District 44 continuously and is now in his 12th year of service to the State of South Carolina as a member of the General Assembly; and

WHEREAS, Representative Boan participated in his first Budget and Control Board meeting as the Chairman of the House Ways and Means Committee on September 4, 1990; and

WHEREAS, the Board acknowledges with regret that Representative Boan will no longer serve on this Board.

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FURTHER, the Board directs that this Resolution be presented to Representative Boan and that a copy be retained among the Board's official records.

ADOPTED this tenth day of January, 1995, at Columbia.

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board unanimously adopted the resolution.

Governor Campbell then presented Mr. Boan with the framed resolution, and expressed his enjoyment at having worked with Mr. Boan who he said has had the best interests of the State at heart. The assembly responded with a standing ovation.

Mr. Boan said he will miss working with the Board. He said some difficult times have required some difficult decisions during the past four years, but that he is pleased when he reflects on those decisions. He expressed his appreciation for Governor Campbell's leadership and friendship and extended his best wishes to both Governor Campbell and Mr. Patterson. He said he looks forward to working with members of the Board in his continuing involvement in issues affecting state employees such as health benefits, pay, and quality management in which the Board has taken a leadership role. He also expressed his appreciation to Dr. Carter and his fine staff.

Governor Campbell, in exercising the prerogative of the chair, stated that he has had the privilege of serving with Mr. Patterson for many years and that Mr. Patterson has done an outstanding job for the state and the country. He said that there are not too many things one can do to say "thank you" but observed that it is entirely fitting that, as Mr. Patterson retires from this career, the State of South Carolina recognize his efforts on behalf of the state. He then presented the Order of the Palmetto to Mr. Patterson. The assembly again responded with a standing ovation.

Mr. Patterson said that he is deeply honored and appreciative of the highest honor that can be bestowed upon a citizen of South Carolina and accepted the Order in humility and gratitude. He again expressed appreciation for the work of the Board, for

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Governor Campbell's leadership, and for the exemplary work of Dr. Carter and Board staff.

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

State Treasurer's Office: Bond Counsel Selection (Regular Session 1A)

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board approved the selection of the McNair & Sanford law firm to provide bond counsel services for the Department of Commerce, authorized note from Insurance Reserve Fund for infrastructure at Savannah Lakes Village.

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

Office of Budget: Notification of Potential Deficit from Appellate Defense (R#2)

State Budget Director George Dorn and Appellate Defense Chief Attorney Daniel Stacey appeared before the Board on this matter.

The Board was advised that the Office of Appellate Defense has notified the State Budget Office of a potential general fund deficit of \$94,296. The deficit has been caused by growing printing costs associated with increased appeal activity. Supreme Court Rule 209 requires that fifteen copies of the Record on Appeal be submitted with each appeal. Ten copies are permitted for non-capital cases. If an oral argument is granted, an additional five copies of the transcript must be furnished to the Court. Supreme Court Rule 227 requires two copies of the appendix in each post-conviction appeal.

The Office of Appellate Defense has not been able to meet all financial obligations within its allotted budget since 1991-92 when the agency's budget was reduced 7.3%. Since that time, the Office has received fiscal assistance each succeeding year from the Board through some form of deficit recognition. In each of those years,

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the Office requested increased funding from the General Assembly, but no increase was granted.

Proviso 17G.36 of the 1994-95 Appropriations Act sets forth a procedure for addressing agencies with potential general fund deficits. This proviso assigns the Board the task of determining the likelihood of a deficit and determining whether the cause of the deficit is unavoidable due to factors which are wholly outside of an agency's control. If the Board finds the deficit is unavoidable due to factors which are wholly outside of an agency's control, the findings are transmitted to the General Assembly.

Per the instructions set out in Proviso 17G.36 of the 1994-95 Appropriations Act, the Office of State Budget recommended that the Board determine the deficit is wholly outside of the agency's control and to notify the General Assembly of the Board's findings.

Following a discussion relating to court mandates and court orders and the requirements for numbers of copies, Mr. Shine pointed out that the agency has no discretion in the matter.

Senator Drummond pointed out that there has been a considerable addition to the appeals process. Mr. Patterson agreed that the appeals process is very expensive and that some means should be devised to take up all grounds for appeals in one court proceeding.

Mr. Stacey advised the Board that the Office of Appellate Defense is responsible for the first round of appeals. He advised that the statute in place requiring that the Office provide counsel both in post-conviction and in direct appeals. He pointed out that the Office has no control over its caseload and that it is working with the same money and handling over a hundred appeals per attorney compared to a caseload of about fifty appeals per attorney. He said both the caseload and the printing have increased.

Upon a motion by Senator Drummond, seconded by Mr. Morris, the Board determined that a potential deficit of \$94,296 for 1994-95 in the Office of Appellate

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Defense is unavoidable due to factors wholly outside of the agency's control, recognized the potential deficit, and notified the General Assembly of the Board's findings.

Information relating to this matter has been retained in these files and is identified as Exhibit 11.

Human Resources: Grievance Regulation Revisions (Regular Session #3)

Section 8-11-23 of the S. C. Code of Laws and Budget and Control Board Regulation 19-775.34 provide that the Budget and Control Board develop and promulgate rules and regulations concerning the State Employee Grievance Process. The attached revisions to existing rules and regulations clarify language, allow for more efficient administration, and comply with recent statutory changes.

A synopsis of these revisions was provided to the Board on November 3, 1994, and printed in the State Register on November 25, 1994, as required by the Administrative Procedures Act (APA). A public hearing was scheduled for December 28, 1994; however, no comments were received.

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board approved the revisions to existing rules and regulations concerning the State Employee Grievance Process for submission to the General Assembly.

Information relating to this matter has been retained in these files and is identified as Exhibit 12.

Human Resources: Department of Mental Health Tuition Support Program (Reg. #4)

The Department of Mental Health requested Budget and Control Board approval for an extension of its existing leave and tuition support program for Mental Health employees to participate in the Associate Degree in Nursing (ADN) Program at technical college campuses statewide. The Board approved this program for the Department on October 10, 1990, for a three year period. Similar programs for Licensed Practical Nurses had been approved in 1978 and 1982.

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The Board was advised that the Department of Mental Health continues to experience a shortage of nurses, and this program serves as a tool to assist in relieving staffing problems. The Department has received an educational grant from the Robert Wood Johnson Foundation which will assist in the funding of this program. The Department agrees not to request additional state funds for this program.

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board authorized the Department of Mental Health to extend its existing leave and tuition support program for its employees to participate in the Associate Degree in Nursing (ADN) Program at technical college campuses statewide; and authorized the Office of Human Resources to review and renew future Mental Health Department requests for extensions of this program beyond 1998.

General Services: PRT Acquisition of Real Property (Regular Session #5)

The Department of Parks, Recreation and Tourism requested authorization to accept the donation of approximately 268 acres adjoining Kings Mountain State Park in York and Cherokee Counties.

In the agenda materials, General Services advised that it had been informed by PRT that an environmental study is in process and that time is of the essence in

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obtaining approval for the transaction. The Board was therefore requested to approve this donation contingent upon the environmental study being acceptable to General Services and the favorable review of the transaction by the Joint Bond Review Committee.

At the meeting, Mr. Kelly advised that, because of the urgency of the matter, two issues had not yet been resolved prior to agenda distribution, one of which is the environmental study. He said that today he had been advised that the environmental study has been received and is acceptable.

Mr. Kelly pointed out that the Joint Bond Review Committee review had not yet been received. He noted that the procedure is for that to be completed before items come to the Board, but that time constraints had not permitted that in this instance. He asked that the Board approve the request contingent upon favorable JBRC review.

Upon a motion by Senator Drummond, seconded by Mr. Patterson, the Board authorized the Department of Parks, Recreation and Tourism to accept the donation of approximately 268 acres in York and Cherokee Counties adjoining Kings Mountain State Park, contingent upon approval by the Joint Bond Review Committee.

Information relating to this matter has been retained in these files and is identified as Exhibit 14.

General Services: Commerce Procurement Code and § 1-11-65 Exemptions (R#6)

Division Director Richard W. Kelly and Savannah Valley Development Interim Director W. B. Floyd appeared before the Board on this matter.

The Board was advised in the agenda materials that the Department of Commerce proposes to develop a new project, Lakeside at Russell, at Lake Richard B. Russell to be implemented in several phases. The first phase is ready for implementation and consists of a number of components which were detailed in the Draft Proposal included in the agenda materials.

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Minutes of Budget and Control Board Meeting
January 10, 1995 – Page 17

Because of concerns related to the proposed timetable for completing the various components of Phase I, the Department requested Board approval for several exemptions from Code Section 1-11-65 for the property transactions associated with the project. The Department also requested exemptions from the requirements of the Consolidated Procurement Code for several contracts that will be entered into in connection with the project. The Department asked that the Board take the following actions:

1. Approve the concept of the project.
2. Authorize the Department of Commerce to establish financing for the project, subject to the approval of the State Treasurer.
3. Exempt from the requirements of § 1-11-65 the purchase, exchange, lease, or sale of all property connection with Phase I of the project, provided these transactions are approved in advance by the Office of General Services.
4. In accord with Code Section 11-35-710, exempt the following contracts from all requirements of the Consolidate Procurement Code, provided that in each of these situations alternative procedures approved in advance by the Office of General Services are followed:
 - a. The hiring of private vendors for sales and marketing of all residential and commercial properties in this project.
 - b. All construction contracts related to Phase I of the project.
 - c. Contracts related to the development of the golf course and the fun park.

At the meeting, Mr. Kelly recommended that the Board hear a briefing by the Department of Commerce on the details relating to the project financing, construction contracts, and development issues. He advised that the matter would be brought back to the Board at the February 14 meeting for further consideration. He then introduced Mr. Floyd.

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Minutes of Budget and Control Board Meeting
January 10, 1995 - Page 18

Mr. Floyd advised that this is a on-going project that the agency has been working on for some time. He introduced Bill Bashor, who distributed an overall master land use plan to Board members and briefly described the project (see Executive Summary included in the attachment for details). He concluded by advising that requests for proposals have been solicited.

Mr. Floyd advised that this project has been on the fast track. He said that staff of the Board will oversee the project.

Senator Drummond pointed out that a lot of misinformation has been published about what goes on with Savannah Valley Development. He said that this is a tremendous project and urged that the Department of Commerce brief every delegation affected on the details of this project.

The Board without objection received as information the report from the Department of Commerce relating to the Lakeside at Russell project with the understanding that the Department will present the proposal to new Budget and Control Board members and legislative delegations; and agreed to consider the matter further at the February 14 Board meeting.

Information relating to this matter has been retained in these files and is identified as Exhibit 15.

General Services: DHEC Procurement Code Exemption (Regular Session #7)

Division Director Richard W. Kelly and Department of Health and Environmental Control Deputy Commissioner for Administrative Services Ben Lee appeared before the Board on this matter.

In accord with the provisions of Code Section 11-35-710, the Department of Health and Environmental Control requested an exemption from the requirements of the Consolidated Procurement Code for all contracts for home health services.

Hospitals are discharging patients early, thereby increasing the need for home health care. Home health services are delivered on a referral basis only with hospitals

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Minutes of Budget and Control Board Meeting
January 10, 1995 - Page 19

being the primary source of referrals. DHEC has provided these services through its full-time, part-time, and contract program staff.

In order to ensure the continuation of referrals, provide for continuity of patient care, ensure care for indigent patients, and reduce the cost of health care, DHEC must contract with hospitals and other private providers for a full array of coordinated home health services.

For the most part, the individual professional services that comprise home health care have been exempted from the requirements of the Consolidated Procurement Code by previous actions of the Board. However, certain types of services provided by home health service deliverers have not been exempted. An exemption for all contracts for home health services would provide DHEC a method for contracting for the full array of home health services on a turn key basis.

Mr. Lee advised that this is a very large program and that DHEC is single largest provider of home health services in the State. He noted that, of the total \$600 million program, only about \$300,000 is State funds. He said that this exemption would allow DHEC to see that services will continue to be provided to indigent patients at no cost to the State and to provide continuity of patient care. He also pointed out that, if this exemption is granted, it will lend itself to a reduction of State employees.

In the ensuing discussion, Governor Campbell advised that the federal government has granted a complete waiver program for a number of counties on welfare reform and stressed that the State has been seeking this waiver for quite some time. He expressed the anticipation that the total Medicaid reform waivers also will be granted. He asked if the exemptions requested today by DHEC for home health services will in any way impact or affect what has been filed on the Medicaid request. He stressed that the State has worked on the waivers for over two years and expressed his intention to ensure that any Board action today will not adversely affect those waivers.

Following a further discussion, upon a motion by Mr. Morris, seconded by Mr. Patterson, the Board, in accord with the provisions of Code Section 11-35-710, exempted

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Minutes of Budget and Control Board Meeting
January 10, 1995 - Page 20

the Department of Health and Environmental Control from the requirements of the Consolidated Procurement Code for all contracts for home health services, on the condition that a written certification that this exemption will not adversely affect the Medicaid reform waivers is received from the Health and Human Services Finance Commission.

Information relating to this matter has been retained in these files and is identified as Exhibit 16.

General Services: DOT Multi-term Contract (Regular Session #7)

The Board was advised that the Department of Transportation has developed an RFP to privatize the logo signing program for the state's interstate highway systems. Due to the initial capital investment the successful contractor will be required to make in replacing existing signs, DOT has requested a ten-year contract period. The RFP has not yet been finalized, but the Office of General Services anticipates including options that would extend beyond the five-year period.

Regulation 19-445.2135(D) limits the maximum time for any multi-term contract to five years unless otherwise approved by the Budget and Control Board.

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board, in accord with the provisions of Regulation 19-445.2135(D), granted the Office of General Services authority to exceed the five-year period in the award of a contract for the Department of Transportation logo signing program, if General Services determines that exceeding the five-year period is in the best interest of the State.

Information relating to this matter has been retained in these files and is identified as Exhibit 17.

General Services: Sale of State Car (Regular Session #9)

The Board was advised that State Treasurer Grady L. Patterson, Jr. has requested permission to purchase his state car, a 1991 Mercury Marquis, when he leaves office.

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Minutes of Budget and Control Board Meeting
January 10, 1995 - Page 22

to assist in providing the water and sewer infrastructure to allow for major expansion and improvement at Huntington Beach State Park.

Information relating to this matter has been retained in these files and is identified as Exhibit 19.

Future Meeting

The Board agreed to meet at 9:30 a.m. on Tuesday, February 14, 1995, in the Governor's conference room in the State House.

State Treasurer: Report on State Credit Rating

Mr. Patterson reported that Standard & Poor's has advised of its intent to upgrade the State of South Carolina to Positive Outlook, with the effect that, once the fiscal year has ended (June 30, 1995) and the facts support current trends, South Carolina's AAA credit rating will be restored; and that Moody's and Fitch Investors Service rating services have continued to rate the State AAA.

Executive Session

The Board without objection 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 Human Resources Personnel Settlement (Council on Vocational and Technical Education)
- 2 Human Resources Agency Head Compensation (DSS)

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:

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Minutes of Budget and Control Board Meeting
January 10, 1995 – Page 23

(a) **Human Resources: Personnel Settlement (Council on Vocational and Technical Education (Executive Session #1))**

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board authorized the South Carolina Council on Vocational and Technical Education, the Commission on Higher Education, and Robert H. White to enter into a personnel settlement with Barbara S. Anderson.

(b) **Human Resources: Agency Head Compensation (DSS) (Executive #2)**

Upon a motion by Mr. Patterson, seconded by Senator Drummond, the Board authorized a salary of \$105,790 for Mr. James T. Clark as the Director of the Department of Social Services, contingent upon the concurrence of the Agency Head Salary Commission and the advice and consent of the Senate.

Adjournment

The meeting was adjourned at 10:50 a.m.

[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 4:30 p.m. on Friday, January 6, 1995.]

003925

EXHIBIT

JAN 10 1995

1

STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
BLUE AGENDA

ITEM NUMBER 1

AGENCY: State Treasurer's Office

SUBJECT: Bond Counsel Assignment, Conduit Issues

The State Treasurer's Office has been advised of the following bond counsel assignment in Jobs-Economic Development Authority conduit issues: Drake Molding Corporation project, Ms. Carol L. Clark of Haynsworth, Marion, McKay and Guerard.

BOARD ACTION REQUESTED:

Receive as information a report that the State Treasurer's Office has been advised of the following bond counsel assignment in Jobs-Economic Development Authority conduit issues: Drake Molding Corporation project, Ms. Carol L. Clark of Haynsworth, Marion, McKay and Guerard.

ATTACHMENTS:

003926

EXHIBIT

STATE OF SOUTH CAROLINA
OFFICE OF STATE TREASURER
COLUMBIA 29211

JAN 10 1995

1

STATE BUDGET & CONTROL BOARD

GRADY L. PATTERSON, JR.
TREASURER

P. O. DRAWER 11778

December 8, 1994

C Mr. Elliott E. Franks, III
O Chief Executive Officer
P South Carolina Jobs-Economic Development Authority
Y 1201 Main Street, Suite 1750
Columbia, SC 29201

RE: Bond Issue for the Drake Molding Corporation Project, Anderson
County

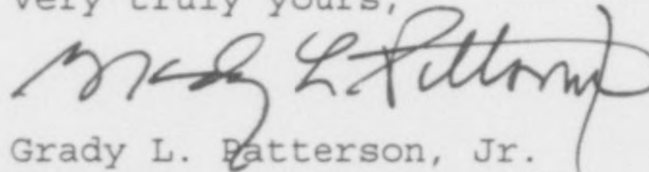
Dear Mr. Franks:

Y We have received your letter dated December 6, 1994, regarding
assignment of Ms. Carol L. Clark, of the law firm of Haysnworth,
Marion, McKay and Guerard to serve as bond counsel on the above-
described conduit issue.

Pursuant to the procedure adopted by the Budget and Control Board at
its meeting February 25, 1993 concerning assignment of bond counsel
on conduit issues, and as the bond counsel selected by the agency
and the obligor is on the current list of approved bond counsel for
conduit issues, we will notify the Board by copy of this letter of
your selection.

With kindest regards, I am

Very truly yours,



Grady L. Patterson, Jr.
State Treasurer

GLPJr:fm

CC: ✓ Ms. Donna Williams
Assistant Executive Director

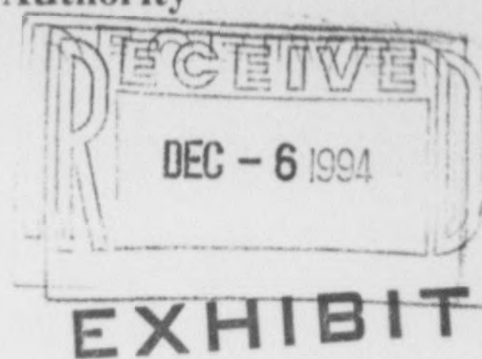
003927

003927

South Carolina Jobs-Economic Development Authority



Elliott E. Franks, III
Chief Executive Officer



JAN 10 1995

1

STATE BUDGET & CONTROL BOARD

December 6, 1994

The Honorable Grady L. Patterson, Jr.
Treasurer
State of South Carolina
Post Office Drawer 11778
Columbia, South Carolina 29211

**RE: BOND ISSUE FOR THE DRAKE MOLDING CORPORATION PROJECT
ANDERSON COUNTY, SOUTH CAROLINA**

Dear Mr. Patterson:

Pursuant to your memorandum dated March 15, 1993, referencing bond counsel selection for Conduit Debt Issues, please be advised that per the desires of the client, Carol L. Clark, Esquire, of the law firm of Haynsworth, Marion, McKay & Guerard, will serve as bond counsel.

Please give me a call if you have any questions regarding this bond counsel selection. Thank you, as always, for your cooperation and support.

Yours sincerely,

Elliott E. Franks, III

EEF:dg

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EXHIBIT

JAN 10 1995

2

STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
BLUE AGENDA
ITEM NUMBER 2

AGENCY: Executive Director

SUBJECT: 1995 State Ceiling

Acting in accord with the provisions of Code Section 1-11-500, the Board Secretary has calculated and certified the state ceiling on the issuance of private activity bonds for calendar year 1995 to be \$183,200,000. The \$183,200,000 figure is derived by multiplying the most recent census estimate of the resident population of South Carolina published by the Bureau of the Census (3,664,000) by \$50.

In accord with Code Section 1-11-520, the state government pool is \$73,280,000 (40%) and the local pool is \$109,920,000 (60%).

BOARD ACTION REQUESTED:

Receive as information a report that, acting in accord with the provisions of Code Section 1-11-500, the Board Secretary has calculated and certified the state ceiling on the issuance of private activity bonds for calendar year 1995 to be \$183,200,000.

ATTACHMENTS:

Certification of 1995 State Ceiling

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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

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 5, 1995

**CERTIFICATION OF
1995 STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS
ESTABLISHED IN TAX REFORM ACT OF 1986, AS AMENDED**

In accord with Section 1-11-500 of the Code of Laws of South Carolina, 1976, as amended, which is part of a plan for allocating the State Ceiling on the issuance of tax exempt private activity bonds established in the Tax Reform Act of 1986, as amended, I have determined that the most recent census estimate of the resident population of the State of South Carolina published by the Bureau of the Census before the beginning of 1995 is 3,664,000.

That population estimate is included in Census Bureau release CB94-204 dated December 28, 1994.

On that basis, I have calculated and I certify the 1995 state ceiling on the issuance of private activity bonds for the State of South Carolina, as established in the Tax Reform Act of 1986, as amended, to be \$183,200,000.

A handwritten signature in cursive script, reading "Donna Kaminer Williams".
Donna Kaminer Williams
Secretary to the Board

003930

UNITED STATES DEPARTMENT OF COMMERCE NEWS

WASHINGTON, D.C. 20230

ECONOMICS
AND
STATISTICS
ADMINISTRATION

BUREAU OF THE
CENSUS

EMBARGOED UNTIL: DEC. 28, 1994 (WEDNESDAY)

Public Information Office
301-457-2794
301-457-4067 (TDD)

CB94-204

Edwin Byerly
301-457-2419

003931

TEXAS NOW SECOND LARGEST STATE, NEVADA FASTEST GROWING,
DISTRICT OF COLUMBIA FASTEST LOSER, CENSUS BUREAU SAYS

EMBARGOED UNTIL: DEC. 28, 1994 (WEDNESDAY)--Texas passed New York to become the nation's second largest state behind California, according to new 1994 population estimates from the Department of Commerce's Census Bureau. Texas expanded its population by 356,000 between 1993 and 1994 to reach 18.4 million. Texas' growth was supported by the second largest natural increase (births minus deaths) in the nation (188,000), the second highest amount of net internal migration from other states (86,000), and the third highest amount of net international migration (75,000).

The last time Texas changed population rank was in 1973, when it outgrew Pennsylvania, and became the third largest state.

California was by far the most populous state, with an estimated 1994 population of 31.4 million. New York dropped to third at 18.2 million.

Eight of the 10 fastest growing states in the country were in the West. Nevada led all states, with a 5.4 percent gain from 1993 to 1994. Arizona was second at 3.3 percent, followed by Idaho at 3.0 percent, Utah and Colorado at 2.6 percent, New Mexico at 2.3 percent, Montana at 1.8 percent, and Oregon at 1.7 percent.

The South had the largest population increase of any region, at 1.3 million. Besides Texas, Florida (227,000), Georgia (153,000), North Carolina (117,000), Tennessee (81,000), and (more)

EXHIBIT

JAN 10 1995

2

- 2 -

STATE BUDGET & CONTROL BOARD

EMBARGOED UNTIL: DEC. 28, 1994 (WEDNESDAY)

Virginia (79,000) were ranked 2nd, 4th, 6th, 9th, and 10th among the states in numerical population increases between 1993 and 1994.

Two states--Connecticut and Rhode Island (each -3,000)--and the District of Columbia (-9,000) experienced population declines. In fact, Vermont passed the District of Columbia in population size, and is our 49th largest state.

California (272,000 or 0.9 percent) and New York (101,000 or 0.6 percent) had the largest amounts and highest rates of net international migration of any state.

California had the highest rate of domestic net outmigration (1.4 percent) of any state, representing a net loss of 426,000 migrants to other states. The District of Columbia had an even higher rate of domestic net outmigration, at 3.0 percent or 17,000 people. Conversely, Nevada, Arizona and Idaho were the only states to have rates of domestic net immigration over two percent.

The nation as a whole, expanded its population from 257.8 million in 1993 to 260.3 million in 1994, a growth of 2.6 million or 1 percent. About 30 percent or 762,000 of the growth was attributed to international migration.

-X-

Editor's Note: EMBARGOED UNTIL: DEC. 28, 1994 (WEDNESDAY) - media representatives may obtain an additional table that provides rankings of state population estimates and components of change between 1993 and 1994, from the bureau's Public Information Office on 301-457-2794. Non-media requests should go to the bureau's Population Statistics Information Staff on 301-457-2422.

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To: SUSAN-B HARDY

From: Census Bureau PIO

12-22-94 4:04pm p. 3 of 5

EMBARGOED UNTIL: DEC. 28, 1994 (WEDNESDAY)

Table 1. Estimates of the Population of States: July 1, 1990 to July 1, 1994

(In thousands. Includes Armed Forces residing in each state)

Region, division, and state	April 1, 1990 Census ¹	July 1, 1990	July 1, 1991	July 1, 1992	July 1, 1993	July 1, 1994
United States.....	248,718	249,402	252,131	255,028	257,763	260,341
Northeast.....	50,811	50,858	50,964	51,100	51,277	51,308
New England.....	13,207	13,220	13,209	13,203	13,235	13,270
Middle Atlantic.....	37,604	37,638	37,755	37,897	38,042	38,125
Midwest.....	59,669	59,767	60,178	60,628	61,038	61,394
East North Central.....	42,009	42,079	42,380	42,687	42,956	43,184
West North Central.....	17,660	17,688	17,798	17,941	18,082	18,210
South.....	85,454	85,730	86,911	88,153	89,417	90,692
South Atlantic.....	43,571	43,758	44,441	45,094	45,737	46,398
East South Central.....	15,180	15,209	15,348	15,517	15,709	15,880
West South Central.....	26,703	26,764	27,124	27,542	27,971	28,404
West.....	52,784	53,047	54,078	55,146	56,051	56,859
Mountain.....	13,659	13,716	14,021	14,376	14,777	15,214
Pacific.....	39,125	39,331	40,057	40,770	41,274	41,645
New England:						
Maine.....	1,228	1,231	1,237	1,237	1,240	1,240
New Hampshire.....	1,109	1,112	1,108	1,114	1,124	1,137
Vermont.....	563	565	568	571	576	580
Massachusetts.....	6,016	6,018	6,002	5,999	6,018	6,041
Rhode Island.....	1,003	1,005	1,004	1,002	1,000	997
Connecticut.....	3,287	3,289	3,291	3,278	3,278	3,275
Middle Atlantic:						
New York.....	17,981	18,002	18,041	18,095	18,153	18,169
New Jersey.....	7,730	7,740	7,767	7,813	7,859	7,904
Pennsylvania.....	11,883	11,896	11,947	11,990	12,030	12,052
East North Central:						
Ohio.....	10,847	10,862	10,932	11,005	11,061	11,102
Indiana.....	5,544	5,555	5,603	5,652	5,706	5,752
Illinois.....	11,431	11,448	11,525	11,610	11,686	11,752
Michigan.....	9,295	9,311	9,370	9,423	9,460	9,496
Wisconsin.....	4,892	4,902	4,949	4,997	5,044	5,082
West North Central:						
Minnesota.....	4,376	4,387	4,429	4,474	4,524	4,567
Iowa.....	2,777	2,780	2,792	2,808	2,821	2,829
Missouri.....	5,117	5,126	5,158	5,193	5,235	5,278
North Dakota.....	639	637	634	635	637	638
South Dakota.....	698	697	702	709	716	721
Nebraska.....	1,578	1,581	1,582	1,604	1,613	1,623
Kansas.....	2,476	2,481	2,492	2,518	2,535	2,554
South Atlantic:						
Delaware.....	666	669	680	690	698	706
Maryland.....	4,781	4,798	4,859	4,914	4,958	5,006
District of Columbia.....	607	604	594	586	579	570
Virginia.....	6,189	6,214	6,287	6,389	6,473	6,552
West Virginia.....	1,793	1,792	1,799	1,807	1,818	1,822
North Carolina.....	6,632	6,657	6,752	6,838	6,952	7,070
South Carolina.....	3,486	3,499	3,557	3,595	3,630	3,664
Georgia.....	6,478	6,506	6,624	6,765	6,902	7,055
Florida.....	12,938	13,019	13,288	13,510	13,726	13,953
East South Central:						
Kentucky.....	3,687	3,692	3,715	3,753	3,794	3,827
Tennessee.....	4,877	4,891	4,950	5,021	5,094	5,175
Alabama.....	4,040	4,048	4,087	4,131	4,181	4,219
Mississippi.....	2,575	2,577	2,594	2,613	2,640	2,669
West South Central:						
Arkansas.....	2,351	2,354	2,371	2,395	2,426	2,453
Louisiana.....	4,220	4,217	4,241	4,273	4,290	4,315
Oklahoma.....	3,146	3,147	3,168	3,206	3,233	3,258
Texas.....	16,986	17,045	17,344	17,667	18,022	18,378
Mountain:						
Montana.....	799	800	808	823	841	856
Idaho.....	1,007	1,012	1,039	1,066	1,100	1,133
Wyoming.....	454	453	458	464	470	476
Colorado.....	3,294	3,304	3,370	3,463	3,564	3,656
New Mexico.....	1,515	1,520	1,547	1,581	1,616	1,654
Arizona.....	3,665	3,679	3,747	3,835	3,945	4,075
Utah.....	1,723	1,730	1,767	1,811	1,860	1,908
Nevada.....	1,202	1,219	1,285	1,331	1,382	1,457
Pacific:						
Washington.....	4,867	4,901	5,018	5,146	5,259	5,343
Oregon.....	2,842	2,858	2,920	2,975	3,035	3,086
California.....	29,758	29,905	30,416	30,909	31,217	31,431
Alaska.....	550	553	569	587	598	606
Hawaii.....	1,108	1,113	1,134	1,153	1,166	1,179

¹ The April 1, 1990 census counts include count resolution corrections processed through March 1994, and do not include adjustments for census coverage errors.

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To: SUSAN R HARDY

From: Census Bureau PIO

12-22-94 4:05pm p. 4 of 5

EMBARGOED UNTIL: DEC. 28, 1994 (WEDNESDAY)

Table 2. Components of Population Change July 1, 1993 to July 1, 1994 and Population Change April 1, 1990 to July 1, 1994

(In thousands. Includes Armed Forces residing in each state)

Region, division, and state	July 1, 1993 to July 1, 1994						April 1, 1990 to July 1, 1994	
	Population change	Percent change	Components of change				Population change	Percent change
			Births	Deaths	Net international migration	Net domestic migration		
United States.....	2,558	1.0	3,987	2,279	762	0	11,623	4.7
Northeast.....	119	0.2	743	495	174	-307	585	1.2
New England.....	35	0.3	183	121	24	-51	63	0.5
Middle Atlantic.....	83	0.2	560	373	149	-256	522	1.4
Midwest.....	356	0.6	894	572	86	-60	1,725	2.9
East North Central.....	227	0.5	638	394	73	-91	1,175	2.8
West North Central.....	128	0.7	256	177	13	32	550	3.1
South.....	1,275	1.4	1,374	801	180	471	5,238	6.1
South Atlantic.....	661	1.4	675	419	94	276	2,827	6.5
East South Central.....	181	1.2	229	153	7	83	710	4.7
West South Central.....	433	1.5	470	230	79	102	1,701	6.4
West.....	808	1.4	975	412	323	-104	4,075	7.7
Mountain.....	437	3.0	244	111	27	269	1,555	11.4
Pacific.....	371	0.9	731	301	296	-373	2,519	6.4
New England:								
Maine.....	0	0.0	15	12	0	-3	12	1.0
New Hampshire.....	13	1.1	16	9	1	4	28	2.5
Vermont.....	5	0.8	7	5	0	2	17	3.1
Massachusetts.....	23	0.4	84	57	15	-20	25	0.4
Rhode Island.....	3	-0.3	14	10	1	-9	7	-0.7
Connecticut.....	3	-0.1	46	29	6	-26	-12	-0.4
Middle Atlantic:								
New York.....	16	0.1	286	172	101	-201	178	1.0
New Jersey.....	45	0.6	116	73	38	-36	174	2.2
Pennsylvania.....	22	0.2	159	128	10	-19	170	1.4
East North Central:								
Ohio.....	41	0.4	158	104	6	-19	255	2.4
Indiana.....	47	0.8	83	53	3	13	208	5.8
Illinois.....	66	0.6	190	108	48	-64	321	2.8
Michigan.....	36	0.4	139	84	12	-32	201	2.2
Wisconsin.....	38	0.7	69	45	3	10	180	3.9
West North Central:								
Minnesota.....	43	0.9	64	37	4	11	192	4.4
Iowa.....	0	0.3	37	29	2	-2	52	1.9
Missouri.....	42	0.8	75	55	3	18	161	3.1
North Dakota.....	1	0.2	9	7	0	-2	1	-0.1
South Dakota.....	5	0.7	11	11	0	4	25	3.6
Nebraska.....	10	0.6	23	15	1	0	44	2.6
Kansas.....	19	0.7	37	24	2	2	76	3.1
South Atlantic:								
Delaware.....	8	1.1	10	7	1	3	40	6.0
Maryland.....	48	1.0	77	41	13	-4	226	4.7
District of Columbia.....	-9	-1.5	11	6	3	-17	-37	-6.1
Virginia.....	79	1.2	96	48	14	6	362	5.9
West Virginia.....	4	0.2	22	22	0	4	29	1.6
North Carolina.....	117	1.7	101	63	5	68	437	6.6
South Carolina.....	34	0.9	56	30	1	4	178	5.1
Georgia.....	153	2.2	110	53	8	83	577	8.9
Florida.....	227	1.7	192	148	49	128	1,015	7.8
East South Central:								
Kentucky.....	33	0.9	52	37	1	14	140	3.8
Tennessee.....	81	1.6	73	47	3	51	298	6.1
Alabama.....	38	0.9	61	42	2	16	178	4.4
Mississippi.....	29	1.1	42	27	1	12	94	3.6
West South Central:								
Arkansas.....	27	1.1	34	27	1	19	102	4.3
Louisiana.....	25	0.6	69	40	2	-8	95	2.2
Oklahoma.....	25	0.8	48	33	2	6	112	3.6
Texas.....	356	2.0	318	130	75	86	1,392	8.2
Mountain:								
Montana.....	15	1.6	11	7	0	10	57	7.1
Idaho.....	33	3.0	17	8	1	22	126	12.5
Wyoming.....	6	1.3	6	4	0	3	22	4.9
Colorado.....	92	2.6	54	24	6	55	361	11.0
New Mexico.....	38	2.3	28	11	4	17	138	9.1
Arizona.....	130	3.3	68	34	10	84	410	11.2
Utah.....	48	2.6	37	11	2	19	185	10.7
Nevada.....	75	5.4	23	12	4	60	255	21.2
Pacific:								
Washington.....	64	1.6	79	41	11	32	476	9.8
Oregon.....	51	1.7	41	28	5	33	244	8.6
California.....	214	0.7	581	223	272	-426	1,672	5.6
Alaska.....	8	1.4	11	2	1	-3	56	10.2
Hawaii.....	13	1.1	20	7	6	-9	70	6.3

1 Population change includes components of change, federal citizen movement, and a small residual.

003934

12/28/94

09:39

CENSUS BUREAU CHARLOTTE REGIONAL

EXHIBIT

Table 3. Rankings of State Population Estimates and Components of Change 1993 to 1994
Consistent with Press Release CB94-204

JAN 10 1995

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(Population in thousands.)

Region, division, and state	July 1, 1994 population	Pop size Rank	Pop change Rank	Percent change Rank	July 1, 1993 to July 1, 1994										Components of change				STATE BUDGET & CONTROL BOARD			
					Birth rate	Rank	Death rate	Rank	Natural increase rate	Rank	Net international migration rate	Rank	Net domestic migration rate	Rank	Net international migration rate	Rank	Net domestic migration rate	Rank				
Unincorporated States	260,341		2,658		1.0		1.5		0.9		0.7		0.3		0.0		0.0					
North Atlantic	51,396		119		0.2		1.4		1.0		0.5		0.3		0.3		-0.6					
South Atlantic	13,270		35		0.3		1.4		0.9		0.5		0.2		0.2		-0.4					
West Atlantic	38,125		63		0.2		1.5		1.0		0.5		0.4		0.4		-0.7					
West North Central	81,394		356		0.6		1.5		0.8		0.5		0.1		0.1		-0.1					
East North Central	43,184		227		0.5		1.5		0.8		0.6		0.2		0.2		-0.2					
South Atlantic	18,210		128		0.7		1.4		1.0		0.4		0.1		0.1		0.2					
West South Central	90,692		1,276		1.4		1.5		0.9		0.6		0.2		0.2		0.6					
East South Central	46,394		661		1.4		1.5		0.9		0.6		0.2		0.2		0.6					
West South Central	15,890		181		1.2		1.5		1.0		0.5		0.0		0.0		0.6					
West South Central	26,404		433		1.5		1.7		0.8		0.9		0.3		0.3		0.4					
Alabama	56,859		808		1.4		1.7		0.7		1.0		0.6		0.6		-0.2					
Florida	15,214		437		3.0		1.7		0.8		0.8		0.2		0.2		1.8					
Georgia	41,645		371		0.8		1.8		0.7		1.0		0.7		0.7		-0.9					
Alabama	4,219	22	36	21	0.9	26	1.5	1.5	1.0	12	0.5	36	0.0	45	0.4	22	0.4	22				
Arkansas	606	46	0	40	1.4	15	1.8	4	0.4	51	1.5	1	0.2	17	0.5	44	0.5	44				
Arizona	4,075	23	130	5	3.3	2	1.7	6	0.9	34	0.9	8	0.3	12	2.1	2	2.1	2				
Kansas	2,453	33	27	29	1.1	22	1.4	37	1.1	3	0.3	46	0.0	48	0.8	13	0.8	13				
California	31,431	1	214	3	0.7	35	1.9	3	0.7	46	1.1	3	0.9	1	-1.4	50	-1.4	50				
Colorado	3,656	26	92	7	2.6	5	1.5	20	0.7	48	0.8	9	0.2	19	1.5	4	1.5	4				
Connecticut	3,275	27	3	49	-0.1	48	1.4	36	0.8	30	0.5	28	0.2	16	-0.6	47	-0.6	47				
Delaware	706	46	8	42	1.1	16	1.4	29	0.9	18	0.5	32	0.1	25	0.5	16	0.5	16				
District of Columbia	570	50	9	51	-1.5	51	1.9	2	1.0	8	0.9	7	0.5	32	0.9	4	-3.0	51				
Florida	13,953	4	227	2	1.7	12	1.4	40	1.1	4	0.3	44	0.4	8	0.9	12	0.9	12				
Georgia	7,055	11	153	4	2.2	7	1.6	13	0.8	41	0.8	10	0.1	24	1.2	3	1.2	3				
Hawaii	1,179	40	13	37	1.1	20	1.7	6	0.6	49	1.1	4	0.5	3	-0.8	46	-0.8	46				
Idaho	1,133	42	33	27	3.0	3	1.6	15	0.8	42	0.8	11	0.1	22	2.0	3	2.0	3				
Illinois	11,752	6	66	12	0.6	39	1.5	10	0.9	24	0.7	17	0.4	7	-0.5	45	-0.5	45				
Indiana	5,752	14	47	16	0.8	28	1.5	27	0.8	25	0.5	27	0.1	39	0.2	26	0.2	26				
Iowa	2,829	30	8	41	0.3	43	1.3	47	1.0	10	0.3	45	0.1	40	-0.1	35	-0.1	35				
Kansas	2,554	32	19	34	0.7	32	1.5	26	0.9	20	0.5	29	0.1	27	0.1	32	0.1	32				
Kentucky	3,827	24	33	26	0.8	27	1.4	41	1.0	13	0.4	42	0.0	46	0.4	21	0.4	21				
Louisiana	4,315	21	25	31	0.6	37	1.6	11	0.8	23	0.7	18	0.0	43	-0.2	38	-0.2	38				
Maine	1,240	39	0	48	0.0	48	1.2	50	1.0	15	0.3	49	0.0	44	-0.3	40	-0.3	40				
Maryland	5,006	19	48	14	1.0	23	1.6	16	0.8	37	0.7	14	0.1	10	-0.1	34	-0.1	34				
Massachusetts	6,041	13	23	32	0.4	40	1.4	36	0.9	18	0.5	39	0.3	11	-0.3	41	-0.3	41				
Michigan	9,496	8	36	24	0.4	41	1.5	25	0.9	32	0.6	21	0.1	20	-0.3	42	-0.3	42				
Minnesota	4,567	20	43	18	-0.9	24	1.4	35	0.8	38	0.6	22	0.1	26	0.2	25	0.2	25				
Mississippi	2,669	31	88	28	1.1	21	1.6	12	1.0	11	0.6	23	0.0	51	0.4	19	0.4	19				
Missouri	5,278	16	42	19	0.8	29	1.4	32	1.0	7	0.4	43	0.1	37	0.4	23	0.4	23				
Montana	656	44	15	36	1.8	9	1.4	45	0.9	35	0.5	31	0.0	47	1.2	5	1.2	5				
Nebraska	1,623	37	10	39	0.6	36	1.4	45	0.9	19	0.5	35	0.1	31	-0.0	33	-0.0	33				
Nevada	1,457	38	75	11	5.4	1	1.6	9	0.9	31	0.7	12	0.3	9	4.3	1	4.3	1				
New Hampshire	1,137	41	13	38	1.1	19	1.4	38	0.8	40	0.6	19	0.1	30	0.4	20	0.4	20				
New Jersey	7,904	9	45	17	0.6	36	1.5	23	0.9	22	0.5	26	0.5	5	-0.5	43	-0.5	43				
New Mexico	1,654	36	38	22	2.3	6	1.7	7	0.7	47	1.0	6	0.2	13	1.0	8	1.0	8				
New York	18,169	3	16	35	0.1	47	1.6	14	0.9	17	0.6	21	0.6	2	-1.1	49	-1.1	49				
North Carolina	7,070	10	117	6	1.7	11	1.5	28	0.9	27	0.5	25	0.1	32	1.0	11	1.0	11				
North Dakota	636	47	1	47	0.2	45	1.4	46	1.1	5	0.3	47	0.1	41	-0.3	39	-0.3	39				
Ohio	11,102	7	41	20	0.4	42	1.4	46	1.1	5	0.3	47	0.1	41	-0.3	39	-0.3	39				
Oklahoma	3,258	26	25	30	0.8	31	1.5	21	0.9	21	0.5	33	0.1	33	0.2	29	0.2	29				
Oregon	3,086	29	51	33	1.7	10	1.4	44	0.9	28	0.4	40	0.2	18	1.1	7	1.1	7				
Pennsylvania	12,052	5	22	33	0.2	46	1.3	48	1.1	6	0.3	48	0.1	28	-0.2	36	-0.2	36				
Rhode Island	997	43	3	50	-0.3	50	1.4	30	1.0	14	0.5	34	0.1	21	-0.9	48	-0.9	48				
South Carolina	3,664	25	34	25	0.9	25	1.5	17	0.8	36	0.7	16	0.0	49	0.1	30	0.1	30				
South Dakota	721	45	5	44	0.7	34	1.5	18	1.6	1	-0.0	51	0.0	42	0.6	15	0.6	15				
Tennessee	5,175	17	81	9	1.6	14	1.4	31	0.9	26	0.5	30	0.1	35	1.0	10	1.0	10				
Texas	18,378	2	356	1	2.0	8	1.8	5	0.7	45	1.0	5	0.4	6	0.5	17	0.5	17				
Utah	1,908	34	48	15	2.5	4	2.0	1	0.6	50	1.4	2	0.1	23	1.0	8	1.0	8				
Vermont	580	49	5	45	0.6	30	1.3	48	0.9	33	0.4	41	0.1	29	0.3	24	0.3	24				
Virginia	6,552	12	79	10	1.2	17	1.5	22	0.7	44	0.7	13	0.2	15	0.1	31	0.1	31				
Washington	5,343	15	84	8	1.6	13	1.5	19	0.8	39	0.7	15	0.2	14	0.6	14	0.6	14				
West Virginia	1,822	35	4	46	0.2	44	1.2	51	1.2	2	-0.0	50	0.0	50	0.2	28	0.2	28				
Wisconsin	5,082	10	38	23	0.7	33	1.4	43	0.9	29	0.5	35	0.1	34	0.2	27	0.2	27				
Wyoming	476	51	6	43	1.3	16	1.4	42	0.8	43	0.6	20	0.1	38	0.5	16	0.5	16				

1 Population change includes components of change, federal citizen movement and a small residual.

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EXHIBIT

JAN 10 1995

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STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
BLUE AGENDA

ITEM NUMBER 3

AGENCY: Aiken County

SUBJECT: Hospital Revenue Bonds

The required reviews on the following proposal to issue revenue bonds have been completed with satisfactory results. The project requires approval under State law. An allocation of a portion of the Ceiling is not required.

Issuing Authority:	Aiken County
Amount of Issue:	\$650,000 Hospital Revenue Bonds
Allocation Amount:	-0-
Name of Project:	Aiken County Commission on Alcohol and Drug Abuse, d/b/a Aiken Center for Alcohol and Other Drug Services
Employment Impact:	n/a
Project Description:	defraying a portion of the costs of acquiring, renovating, upfitting, and improving office and substance abuse treatment facilities

BOARD ACTION REQUESTED:

Adopt a resolution approving the Aiken County proposal to issue \$650,000 Hospital Revenue Bonds on behalf of the Aiken County Commission on Alcohol and Drug Abuse, d/b/a Aiken Center for Alcohol and Other Drug Services project.

ATTACHMENTS:

Resolution

003936

0040 - 44000

EXHIBIT

JAN 10 1995

3

A RESOLUTION

STATE BUDGET & CONTROL BOARD

APPROVING THE ISSUANCE BY AIKEN COUNTY, SOUTH CAROLINA, OF HOSPITAL REVENUE BONDS (AIKEN COUNTY COMMISSION ON ALCOHOL AND DRUG ABUSE, D/B/A THE AIKEN CENTER FOR ALCOHOL AND OTHER DRUG SERVICES PROJECT) SERIES 1995 IN THE PRINCIPAL AMOUNT OF \$650,000, PURSUANT TO THE PROVISIONS OF SOUTH CAROLINA CODE ANNOTATED, TITLE 44, CHAPTER 7, ARTICLE 11 (1976), AS AMENDED.

WHEREAS, the County Council of Aiken County, South Carolina (the "Governing Board") has heretofore, by submitting a petition (the "Petition"), under and pursuant to the provisions of Section 44-7-1590 of South Carolina Code Annotated, Title 44, Chapter 7, Article 11 (1976), as amended (the "Act") requested the approval by the State Budget and Control Board of the issuance by Aiken County (the "County") pursuant to the Act of its Hospital Revenue Bonds (Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services Project) in the aggregate principal amount of not exceeding \$650,000 (the "Bonds"); and

WHEREAS, the County proposes to issue the Bonds for the purpose of acquiring, renovating, upfitting and improving of office and substance abuse treatment facilities (the "Project").

WHEREAS, the Bond proceeds are to be made available to the the Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services, a body politic and corporate (the "Commission") upon terms which require the Commission to make payments to or for the account of the County in amounts sufficient to pay the principal and interest on the Bonds and which secure the obligation of the Commission by a mortgage and security interest in the Project; and

WHEREAS, the Bonds will be payable from and secured by an assignment of the obligations of the Commission under the Loan Agreement and by a mortgage and security interest in the Project; and

WHEREAS, the County has submitted with the Petition (i) an Inducement Agreement by and between the Commission and the County executed by the County on December 27, 1994 and thereafter by the Commission, and (ii) a copy of a Resolution and Petition adopted by the County on December 13, 1994, and this Board has reviewed and considered each of said documents in its consideration of said Petition by the County.

003937

NOW, THEREFORE, BE IT RESOLVED, by the State Budget and Control Board of the State of South Carolina, as follows:

Section 1. The Board has made such investigation of the matters set forth in the Petition as it deems advisable, and on that basis it is hereby found, determined and declared:

(a) The Petition filed by the Governing Board contains all matters required by law and the rules of this Board to be set forth therein, and that in consequence thereof the jurisdiction of this Board has been properly invoked under and pursuant to Section 44-7-1590 of the Act;

(b) The Project as described in the Petition of the Governing Board is intended to promote the purposes of the Act and is reasonably anticipated to effect such result; and

(c) Based upon the offer of NationsBank of South Carolina, N.A. to underwrite the Bonds in the amount of \$650,000, the proposed financing is deemed to be economically feasible.

Section 2. In consequence of the foregoing, the proposal of the County to defray the cost of the Project, to make the Bond proceeds available to the Commission, to finance the cost thereof and expenses incidental thereto by the execution and delivery of the Bonds, secured by an assignment of the revenues to be derived from a loan agreement, and further secured by a mortgage and security interest in the Project, be and the same is hereby and in all respects approved. This approval shall not be affected by any changes in the details of the proposal of the County as long as such changes do not impose a pecuniary liability upon the County or its general credit or taxing power, are approved by the County Council and the Commission, and do not make inaccurate, except as to dates and amounts, the summaries of the loan agreement and/or trust indenture to be entered into by the County and the Commission and the description of the Project.

Section 3. Notice of the action taken by this Board in approving the above described undertaking of the County shall be published in The Aiken Standard which is a newspaper having general circulation in Aiken County.

Section 4. The notice, required in Section 3 above to be published, shall be in substantially the form set forth in Exhibit "A" of this Resolution.

Section 5. This Resolution shall take effect immediately.

EXHIBIT

JAN 10 1995

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EXHIBIT A

STATE BUDGET & CONTROL BOARD

NOTICE PURSUANT TO THE PROVISIONS
OF SOUTH CAROLINA CODE ANNOTATED,
TITLE 44, CHAPTER 7, ARTICLE 11
(1976), AS AMENDED

Notice is hereby given pursuant to the provisions and requirements of Section 44-7-1590 of South Carolina Code Annotated, Title 44, Chapter 7, Article 11 (1976), as amended (the "Act"), that the State Budget and Control Board of South Carolina, pursuant to a Petition filed by the County Council of Aiken County, South Carolina, has given its approval to the following undertaking by Aiken County, South Carolina:

The issuance by Aiken County of its Hospital Revenue Bonds (Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services Project) Series 1995, in the original principal amount of \$650,000 (the "Bonds"), to defray the cost of acquiring, constructing and equipping a 20,000 square foot facility consisting of a two-story main building with two annexing one-story wings and approximately 100 parking spaces. The facility will be located on approximately 20 acres located at 1105 Gregg Highway, Aiken, South Carolina (the "Project") to be used by the Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services, a body politic and corporate of the State of South Carolina (the "Commission"). The Project will be used by the Commission as office and substance abuse treatment facilities. The Bonds proceeds will be made available to the Commission pursuant to a loan agreement between the County and the Commission (the "Loan Agreement"), under which the Commission will unconditionally covenant to make payments sufficient to pay the principal and interest on the Bonds. The Bonds will be payable solely and exclusively out of payments to be made by the Commission and the Bonds are to be additionally secured by a mortgage and security interest in the Project granted under the terms of a mortgage and security agreement (the "Mortgage") between the Commission and a trustee bank to be named.

Pursuant to a petition filed with the State Budget and Control Board, the County Council has found that (a) there is a need for the Project in the area, (b) the Commission is financially responsible and capable of fulfilling its obligations with respect to the Bonds, the Project, the Loan Agreement and the Mortgage, (c) adequate provision has been made for payment of the Bonds and operation of the Project and (d) adequate public facilities, including utilities necessary for the Project, will be made available.

EXHIBIT

JAN 10 1985

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Inasmuch as no new treatment beds will be provided by the Project and a certificate of need is in place for all existing beds, no further action is required by the South Carolina Department of Health and Environmental Control under South Carolina Code Annotated, Article 3, Chapter 7, Title 44 (1976), as amended.

Notice is further given that any interested party may, within twenty (20) days after the date of the publication of this notice, but not afterwards, challenge the validity of the State Budget and Control Board's approval of the Project and the issuance of the Bonds by Aiken County to finance the same, by action de novo instituted in the Circuit Court for Aiken County, South Carolina.

STATE BUDGET AND CONTROL BOARD

BY: DONNA K. WILLIAMS, Secretary

Dated: _____, 19__.

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TRANSMITTAL FORM, REVENUE BONDS

January 10, 1995

\$650,000

McNair & Sanford, P.A.

Name of Law Firm

1301 Gervais Street, 17th Floor
NationsBank Tower

P.O. Box 11396 Street Address/Box Number

Columbia, SC 29201

City, State, Zip Code

(803) 799-9800

Area Code/Telephone Number

Projected Issue Date

The Aiken County Commission on Alcohol and Drug Abuse, d/b/a

Project Name: The Aiken Center for Alcohol and Other Drug Services Project

Project Description: Defraying a portion of the costs of acquiring, renovating, upfitting and improving office and substance abuse treatment facilities

Employment as a result of the project: 43

Ceiling Allocation Required

Yes (\$) X No

Amount

Refunding Involved

Yes (\$) ☒ No

Amount

Project Approved Previously

Yes (\$ _____) X No

Amount

Documents enclosed (executed original and two copies of each):

(ALL documents required for state law approval; A and C only for ceiling allocation only.)

- A. X Petition
B. X Resolution or Ordinance
C. X Inducement Resolution or comparable preliminary approval
D. ___ Department of Health and Environmental Control Certificate *if required*
E. X Budget and Control Board Resolution and Public Notice (*original*)
 Plus 5 *copies for certification and return to bond counsel*
F. X Draft bond counsel opinion letter
G. ___ Processing Fee - No fee required as this is a political subdivision
 Amount: \$ _____ Check No: _____
 Payor: _____

Bond Counsel: Francenia B. Heizer
Typed Name of Bond Counsel

By: Francena B. Keizer
Signature

603941

EXHIBIT

JAN 10 1995

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

STATE BUDGET & CONTROL BOARD
Aiken Center for Alcohol & Other Drug Svcs.

I, DONNA KAMINER WILLIAMS, SECRETARY to the South Carolina State Budget and Control Board, DO HEREBY CERTIFY:

That, at the referenced meeting, the State Budget and Control Board (the Board) was composed of the following:

His Excellency, Carroll A. Campbell, Jr., Governor and Chairman of the Board;

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

The Honorable Earle E. Morris, Jr., Comptroller General;

The Honorable John Drummond, Chairman of the Senate Finance Committee; and

The Honorable Henry E. Brown, Jr., Chairman of the House Ways and Means Committee.

That due notice of a meeting of the Board, called to be held in Columbia, South Carolina, at 9:30 a.m. on Tuesday, January 10, 1995, was given to all members in writing at least four days prior to the meeting and that, in compliance with the Freedom of Information Act, public notice of and the agenda index 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, in the lobby of the Wade Hampton Office Building, and near the Board Secretary's Office on the Sixth Floor of the Wade Hampton Office Building at 4:30 p.m. on Friday, January 6, 1995.

That all members of the Board were present at the meeting.

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

FOR MOTION

5

AGAINST MOTION

0

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

March 28, 1995

Donna Kaminer Williams

003942

A RESOLUTION

APPROVING THE ISSUANCE BY AIKEN COUNTY, SOUTH CAROLINA, OF HOSPITAL REVENUE BONDS (AIKEN COUNTY COMMISSION ON ALCOHOL AND DRUG ABUSE, D/B/A THE AIKEN CENTER FOR ALCOHOL AND OTHER DRUG SERVICES PROJECT) SERIES 1995 IN THE PRINCIPAL AMOUNT OF \$650,000, PURSUANT TO THE PROVISIONS OF SOUTH CAROLINA CODE ANNOTATED, TITLE 44, CHAPTER 7, ARTICLE 11 (1976), AS AMENDED.

WHEREAS, the County Council of Aiken County, South Carolina (the "Governing Board") has heretofore, by submitting a petition (the "Petition"), under and pursuant to the provisions of Section 44-7-1590 of South Carolina Code Annotated, Title 44, Chapter 7, Article 11 (1976), as amended (the "Act") requested the approval by the State Budget and Control Board of the issuance by Aiken County (the "County") pursuant to the Act of its Hospital Revenue Bonds (Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services Project) in the aggregate principal amount of not exceeding \$650,000 (the "Bonds"); and

WHEREAS, the County proposes to issue the Bonds for the purpose of acquiring, renovating, upfitting and improving of office and substance abuse treatment facilities (the "Project").

WHEREAS, the Bond proceeds are to be made available to the the Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services, a body politic and corporate (the "Commission") upon terms which require the Commission to make payments to or for the account of the County in amounts sufficient to pay the principal and interest on the Bonds and which secure the obligation of the Commission by a mortgage and security interest in the Project; and

WHEREAS, the Bonds will be payable from and secured by an assignment of the obligations of the Commission under the Loan Agreement and by a mortgage and security interest in the Project; and

WHEREAS, the County has submitted with the Petition (i) an Inducement Agreement by and between the Commission and the County executed by the County on December 27, 1994 and thereafter by the Commission, and (ii) a copy of a Resolution and Petition adopted by the County on December 13, 1994, and this Board has reviewed and considered each of said documents in its consideration of said Petition by the County.

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NOW, THEREFORE, BE IT RESOLVED, by the State Budget and Control Board of the State of South Carolina, as follows:

Section 1. The Board has made such investigation of the matters set forth in the Petition as it deems advisable, and on that basis it is hereby found, determined and declared:

(a) The Petition filed by the Governing Board contains all matters required by law and the rules of this Board to be set forth therein, and that in consequence thereof the jurisdiction of this Board has been properly invoked under and pursuant to Section 44-7-1590 of the Act;

(b) The Project as described in the Petition of the Governing Board is intended to promote the purposes of the Act and is reasonably anticipated to effect such result; and

(c) Based upon the offer of NationsBank of South Carolina, N.A. to underwrite the Bonds in the amount of \$650,000, the proposed financing is deemed to be economically feasible.

Section 2. In consequence of the foregoing, the proposal of the County to defray the cost of the Project, to make the Bond proceeds available to the Commission, to finance the cost thereof and expenses incidental thereto by the execution and delivery of the Bonds, secured by an assignment of the revenues to be derived from a loan agreement, and further secured by a mortgage and security interest in the Project, be and the same is hereby and in all respects approved. This approval shall not be affected by any changes in the details of the proposal of the County as long as such changes do not impose a pecuniary liability upon the County or its general credit or taxing power, are approved by the County Council and the Commission, and do not make inaccurate, except as to dates and amounts, the summaries of the loan agreement and/or trust indenture to be entered into by the County and the Commission and the description of the Project.

Section 3. Notice of the action taken by this Board in approving the above described undertaking of the County shall be published in The Aiken Standard which is a newspaper having general circulation in Aiken County.

Section 4. The notice, required in Section 3 above to be published, shall be in substantially the form set forth in Exhibit "A" of this Resolution.

Section 5. This Resolution shall take effect immediately.

EXHIBIT A

NOTICE PURSUANT TO THE PROVISIONS
OF SOUTH CAROLINA CODE ANNOTATED,
TITLE 44, CHAPTER 7, ARTICLE 11
(1976), AS AMENDED

Notice is hereby given pursuant to the provisions and requirements of Section 44-7-1590 of South Carolina Code Annotated, Title 44, Chapter 7, Article 11 (1976), as amended (the "Act"), that the State Budget and Control Board of South Carolina, pursuant to a Petition filed by the County Council of Aiken County, South Carolina, has given its approval to the following undertaking by Aiken County, South Carolina:

The issuance by Aiken County of its Hospital Revenue Bonds (Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services Project) Series 1995, in the original principal amount of \$650,000 (the "Bonds"), to defray the cost of acquiring, constructing and equipping a 20,000 square foot facility consisting of a two-story main building with two annexing one-story wings and approximately 100 parking spaces. The facility will be located on approximately 20 acres located at 1105 Gregg Highway, Aiken, South Carolina (the "Project") to be used by the Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services, a body politic and corporate of the State of South Carolina (the "Commission"). The Project will be used by the Commission as office and substance abuse treatment facilities. The Bonds proceeds will be made available to the Commission pursuant to a loan agreement between the County and the Commission (the "Loan Agreement"), under which the Commission will unconditionally covenant to make payments sufficient to pay the principal and interest on the Bonds. The Bonds will be payable solely and exclusively out of payments to be made by the Commission and the Bonds are to be additionally secured by a mortgage and security interest in the Project granted under the terms of a mortgage and security agreement (the "Mortgage") between the Commission and a trustee bank to be named.

Pursuant to a petition filed with the State Budget and Control Board, the County Council has found that (a) there is a need for the Project in the area, (b) the Commission is financially responsible and capable of fulfilling its obligations with respect to the Bonds, the Project, the Loan Agreement and the Mortgage, (c) adequate provision has been made for payment of the Bonds and operation of the Project and (d) adequate public facilities, including utilities necessary for the Project, will be made available.

Notice is further given that any interested party may, within twenty (20) days after the date of the publication of this notice, but not afterwards, challenge the validity of the State Budget and Control Board's approval of the Project and the issuance of the Bonds by Aiken County to finance the same, by action de novo instituted in the Circuit Court for Aiken County, South Carolina.

BY: DONNA K. WILLIAMS, Secretary

Dated: _____, 19____.

The State of South Carolina



Office of the Attorney General

EXHIBIT

JAN 10 1995

3

STATE BUDGET & CONTROL BOARD

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3680
FACSIMILE: 803-253-6283

January 5, 1995

Ms. Donna Williams
Assistant Executive Director
State Budget and Control Board
612 Wade Hampton Office Building
Post Office Box 12444
Columbia, South Carolina 29211

Re: Aiken County
\$650,000 Hospital Revenue Bonds
The Aiken County Commission on Alcohol and Drug Abuse d/b/a
The Aiken Center for Alcohol and Other Drug Services project

Dear Ms. Williams:

Regarding the above-referenced obligation, we have reviewed the Petition and other documents forwarded to us by the State Budget and Control Board. These represent a portion of the documents that have been submitted to the Board for its approval pursuant to S.C. Code Ann. §44-7-1590, Code of Laws of South Carolina, 1976 and as amended. The documents appear to comply with the requirements of the referenced Code sections that certain specific information be addressed in these documents.

This letter addresses only the fact that the documents appear to meet the conditions imposed by State law that certain specific matters be included in the documentation. No opinion is expressed as to any other matters, including whether the Petition should be approved as a matter of policy.

Office of the Attorney General

By:

Clara C. Brundage

ACB/fg

003947

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



CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

1201 MAIN STREET, SUITE 420
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-3880
(803) 737-0592 Fax

HELEN T. ZEIGLER
DIRECTOR

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

January 5, 1995

The Honorable Donna K. Williams
Secretary
S. C. Budget and Control Board
601 Wade Hampton Office Building
Columbia, South Carolina 29201

RE: Aiken County
650,000 Hospital Revenue Bonds
The Aiken County Commission on Alcohol and Drug Abuse d/b/a
The Aiken Center for Alcohol and Other Drug Services Project

Dear Mrs. Williams:

We have received the Revenue Bonds Transmittal Form and other items regarding the referenced proposed bonds.

These documents have been submitted by Bond Counsel, McNair and Sanford, P.A. and upon review of the Petition to the Budget and Control Board, the proposed Resolution of the Budget and Control Board and the draft of the Opinion of Bond Counsel appear to be in good order. Of course, we express no opinion as to the merits of the bond issue or the validity of the information recited in these documents as we have not acted in a capacity which would enable us to have knowledge adequate to form such an opinion. We have merely reviewed the documents form and they appear to meet the conditions imposed by State law that certain matters be addressed in the documentation.

Sincerely,

A handwritten signature in cursive script that reads "Wayne F. Rush".

Wayne F. Rush
General Counsel

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McNAIR & SANFORD, P.A.
ATTORNEYS AND COUNSELORS AT LAW

NATIONSBANK TOWER/1301 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

MAILING ADDRESS:
POST OFFICE BOX 11390
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE 803/799-9800
FACSIMILE 803/799-9804

CHARLESTON OFFICE
140 EAST BAY STREET
POST OFFICE BOX 1431
CHARLESTON, SC 29402
TELEPHONE 803/723-7831
FACSIMILE 803/722-3227

GEORGETOWN OFFICE
121 SCREVEN STREET
POST OFFICE DRAWER 418
GEORGETOWN, SC 29442
TELEPHONE 803/546-6102
FACSIMILE 803/546-0096

GREENVILLE OFFICE
NATIONSBANK PLAZA
SUITE 601
7 NORTH LAURENS STREET
GREENVILLE, SC 29601
TELEPHONE 803/271-4940
FACSIMILE 803/271-4015

RALEIGH OFFICE
234 FAYETTEVILLE STREET MALL
SUITE 100
POST OFFICE BOX 2447
RALEIGH, NC 27602
TELEPHONE 919/755-1800
FACSIMILE 919/890-4180

SPARTANBURG OFFICE
SPARTAN CENTRE/SUITE 306
101 WEST ST. JOHN STREET
POST OFFICE BOX 5137
SPARTANBURG, SC 29304
TELEPHONE 803/542-1300
FACSIMILE 803/542-0705

WASHINGTON OFFICE
MADISON OFFICE BUILDING
SUITE 400
1155 FIFTEENTH STREET, NORTHWEST
WASHINGTON, DC 20005
TELEPHONE 202/659-3900
FACSIMILE 202/659-5763

December 28, 1994

VIA HAND DELIVERY

EXHIBIT

JAN 10 1995

3

STATE BUDGET & CONTROL BOARD

Ms. Donna Kaminer Williams
Board Secretary
State Budget and Control Board
601 Wade Hampton Building
Columbia, South Carolina 29211

RE: Aiken County, South Carolina, Hospital Revenue
Bonds, Series 1995, \$650,000
File No. 023210.00001

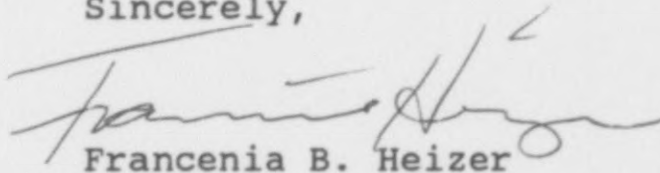
Dear Ms. Williams:

Enclosed are the following documents in regard to the above-referenced matter to be included in the agenda package for the Board's meeting in January 1995:

1. Original and two (2) copies of the Petition;
2. Original and two (2) copies of the Resolution;
3. Original and two (2) copies of the Inducement Agreement and Resolution authorizing same;
4. Original and five (5) copies of the Budget and Control Board Resolution and Public Notice; and
5. Draft of bond counsel opinion letter.

If you have any questions or require any further documentation, please let me know.

Sincerely,



Francenia B. Heizer

FBH:lar
Enclosures
cc: Robert M. Bell, Esquire

003949

EXHIBIT

STATE OF SOUTH CAROLINA)
AIKEN COUNTY)

JAN 10 1995

3

STATE BUDGET & CONTROL BOARD

TO THE STATE BUDGET AND CONTROL
BOARD OF SOUTH CAROLINA

P E T I T I O N

This Petition of Aiken County, South Carolina (the "County"), pursuant to South Carolina Code Annotated, Title 44, Article 11, Chapter 7 (1976), as amended (the "Act"), and specifically Section 44-7-1590 thereof, respectfully shows:

1. The County Council of Aiken County (the "County Council") is the governing body of the County and as such is the "governing board" of the County referred to in the Act.

2. The Act, among other things, empowers the County, subject to obtaining the approval of the State Budget and Control Board, pursuant to Section 44-7-1590 of the Act: (i) to enter into agreements with any hospital agency or public agency necessary or incidental to the issuance of the bonds, as defined in the Act to include notes; (ii) to enter into a loan agreement with a hospital agency or public agency prescribing the terms and conditions of the payments to be made by the hospital agency or the public agency to the County or its assignee; to meet payments that shall become due on bonds, including terms and conditions relative to the acquisition and use of "hospital facilities" and the issuance of bonds; and (iii) to issue revenue bonds for the purpose of defraying the cost of providing hospital facilities and to secure the payment of such bonds; and to make the proceeds of any bonds available by way of a loan to a hospital agency or public agency pursuant to a loan agreement.

3. By Resolution adopted December 13, 1994, the County agreed to assist the Aiken County Commission on Alcohol and Drug Abuse, d/b/a the Aiken Center for Alcohol and Other Drug Services, a body corporate and politic under the laws of South Carolina (the "Commission"), by issuing its revenue bonds for the purpose of defraying a portion of the cost of acquiring, renovating, upfitting and improving of office and treatment facilities (the "Project"), more fully described in Exhibit A to the Agreement and Indenture hereinafter referred to.

4. The County has been advised by the Commission that the estimated cost of the Project will be at least \$1,520,000 and

it has requested the County to execute and deliver its Hospital Revenue Bonds (Aiken County Commission on Alcohol and Drug Abuse, d/b/a the Aiken Center for Alcohol and Other Drug Services Project) (the "Bonds") in a principal amount not exceeding \$650,000 to defray a portion of such costs.

5. Pursuant to Section 44-7-1480 of the Act, the County Council has made the requisite findings that:

(a) the Project to be acquired or constructed constitutes Hospital Facilities as defined in the Act;

(b) there is a need for the Project in the area in which it is to be located to serve the people of the County;

(c) the Commission is a hospital agency as defined in the Act with established credit and is financially responsible and capable of fulfilling its obligation and discharging its responsibilities which may be imposed under the Agreement to be entered into by and between the County and the Commission;

(d) adequate provision shall be made for the payment of principal of and interest on the Bonds and any necessary reserves therefor and for the operation, repair and maintenance of the Project at the expense of the Commission including all proper insurance with respect thereto;

(e) the public facilities, including utilities and public services necessary for the Project, will be made available;

(f) the issuance of the Bonds will subserve the purposes and in all respects conform to the provisions and requirements of the Act;

(g) neither the Project, the Bonds, nor any documents or agreements entered into by the County in connection therewith will constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing power;

(h) because the Bonds are being issued on behalf of a body corporate and politic, it is not necessary to secure an allocation of the State's Private Activity Volume Cap; and

(i) Bonds will be purchased by NationsBank of South Carolina, N.A., as a private placement which is acceptable to the County and the Commission upon terms and conditions which have been determined by the Commission to be the most advantageous.

6. Pursuant to Section 44-7-1590 of the Act, the County sets forth the following information:

(a) The Project, described in detail on Exhibit A to the Agreement and the Indenture, consists of the acquisition, construction, equipping, and upfitting of offices and treatment facilities in an approximately 22,000 square foot building.

(b) It is estimated that the cost of the Project, including the items of cost authorized in the Act, will be at least \$1,520,000.

(c) The Commission has advised that an exemption from the Certificate of Need requirements of Article 3, Chapter 7, Title 44 (South Carolina Code) is available and is being arranged with the South Carolina Department of Health and Environmental Control.

(d) Copies of the Agreement and the Indenture are available from the County. The following summary of terms is in no wise intended to affect or alter the actual terms of the documents themselves:

(i) The proposed Agreement between the Commission and the County provides in general:

(A) Proceeds derived from the sale of the Bonds, will be used and applied by the County upon request of the Commission solely for the payment of the costs (as that term is defined in the Act) incident to the acquisition, renovation, upfitting and improvement, of the Project.

(B) The Commission obligates itself: to effect the completion of the Project if the proceeds derived from the sale of the Bonds prove insufficient therefor without diminution of any payments to the County required by the Agreement; to meet the payments of principal and interest on the Bonds as the same become due; and to pay the cost of maintaining and insuring the Project to the extent and in the manner provided in the Agreement.

(C) The County does not incur any pecuniary liability or charge upon its general credit or taxing powers.

(D) The Lender acquires, for its benefit, a certain trust estate under the granting clauses of the Indenture.

(ii) The proposed Indenture between the County and NationsBank of South Carolina, N.A., as Lender.

(A) An irrevocable pledge and assignment to the Lender for its benefit of the County's right, title and interest in and to the Agreement and all payments, receipts and revenues which the County has a right to receive under the Agreement or with respect to any security afforded thereunder or any other financing agreement with respect to the Project in favor of the County (except payments and rights to indemnification payments and administration expenses), and all the moneys and securities in funds created under the Indenture.

(B) The terms of the Bonds, the provisions for exchange and transfer of the Bonds, the prepayment provisions, the means of disbursement, default provisions and remedies therefor and various other matters relating to the Bonds.

(C) The execution of the Indenture imposes no pecuniary liability on the County and does not create a charge upon the general credit or taxing power of the County.

7. No approvals granted in connection with the Bonds have been made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

Upon the basis of the foregoing, the County respectfully prays that the State Budget and Control Board (i) accept the filing of this Petition and the documents submitted herewith, (ii) make such investigation as it deems advisable, (iii) if it finds that the Project is intended to promote the purposes of the Act and may be reasonably anticipated to effect such result, that it approve the Project and the execution and delivery of the Bonds by the County pursuant to the Act to defray the cost of the Project (including changes in any details of the said financing as finally

consummated which do not materially affect the undertaking of the County), and (iv) give published notice of its approval in the manner set forth in Section 44-7-1590 of the Act.

Respectfully submitted,

Aiken COUNTY, SOUTH CAROLINA

By:

Kenner Gane
Chair, Aiken County Council

ATTEST:

Emma Sullivan
Clerk, Aiken County Council

Dated: December 27, 1994

EXHIBIT

JAN 10 1995

3

RESOLUTION

STATE BUDGET & CONTROL BOARD

A RESOLUTION MAKING APPLICATION TO THE STATE BUDGET AND CONTROL BOARD OF SOUTH CAROLINA FOR APPROVAL OF THE ISSUANCE BY AIKEN COUNTY, SOUTH CAROLINA, OF ITS HOSPITAL REVENUE BONDS (AIKEN COUNTY COMMISSION ON ALCOHOL AND DRUG ABUSE, D/B/A THE AIKEN CENTER FOR ALCOHOL AND OTHER DRUG SERVICES PROJECT) SERIES 1995, PURSUANT TO THE PROVISIONS OF SOUTH CAROLINA CODE ANNOTATED, TITLE 44, ARTICLE 11, CHAPTER 7 (1976), AS AMENDED, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$650,000.

WHEREAS, Aiken County, South Carolina (the "County"), acting by and through its County Council, is authorized and empowered under and pursuant to the provisions of South Carolina Code Annotated, Title 44, Article 11, Chapter 7 (1976), as amended (the "Act"), to enter into agreements with any hospital agency or public agency necessary or incidental to the issuance of bonds and to issue bonds for the purpose of defraying a portion of the cost of providing "hospital facilities" as defined in the Act, through which the public health and welfare of the people of the State of South Carolina may be promoted at the lowest possible expense; and

WHEREAS, the County is further authorized by the Act to issue revenue bonds payable by the County solely from revenues and receipts from any financing agreement with respect to such project and secured by a pledge of said revenues and receipts and by an assignment of such financing agreement; and

WHEREAS, the Aiken County Commission on Alcohol and Drug Abuse, d/b/a the Aiken Center for Alcohol and Other Drug Services, a body corporate and politic under the laws of South Carolina (the "Commission"), entered into an Inducement Agreement approved by the County on December 13, 1994, and thereafter by the Commission, pursuant to which and in order to implement the public purposes enumerated in the Act and in furtherance thereof the County proposes to issue its Hospital Revenue Bonds (The Aiken Center For Alcohol and Other Drug Services Project) Series 1995 in a principal amount not exceeding \$650,000 (the "Bonds") under and pursuant to the Act to defray a portion of the costs of acquiring, renovating, upfitting and improving of office and treatment facilities (the "Project") and, subject to the approval of the State Budget and Control Board of South Carolina, to make the Project available to the Commission under and pursuant to the terms of a financing agreement (the "Agreement") to be entered into between the County and the Commission; and

WHEREAS, it is now deemed advisable by the County Council to file with the State Budget and Control Board of South Carolina, in compliance with Section 44-7-1590 of the Act, the Petition of the County requesting approval by the State Budget and Control Board of the proposed financing;

NOW, THEREFORE, BE IT RESOLVED by the County Council of Aiken County, South Carolina, as follows:

Section 1. It is hereby found, determined and declared as follows:

(a) The Project will constitute "hospital facilities" as said term is referred to and defined in Section 44-7-1430(f) of the Act, and the issuance of the Bonds in the principal amount of not exceeding \$650,000 to finance the Project will subserve the purposes and in all respects conform to the provisions and requirements of the Act.

(b) It is anticipated that the Project will benefit the general public welfare of the County by providing public health and welfare benefits not otherwise provided locally;

(c) Neither the Project, the Bonds proposed to be issued by the County to defray the cost of the Project, nor any documents or agreements entered into by the County in connection therewith will constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing power.

(d) The issuance of the Bonds by the County in the principal amount of not exceeding \$650,000 will be required to defray a portion of the cost of the Project.

(e) The proceedings under which the Bonds will be authorized will establish a debt service reserve fund in connection with the retirement of the Bonds if required by the lender.

(f) The Project will be made available by the County to the Commission upon terms which will require the Commission, at its own expense, to maintain the Project in good repair and to carry all proper insurance with respect thereto.

(g) The Project will consist of the items described on Exhibit A to the Agreement and the Indenture to be entered into between the County and a trustee bank to be named (the "Lender").

(h) A reasonable estimate of the cost of the Project including necessary expenses incident thereto is at least \$1,520,000.

(i) The public facilities, including utilities and public services necessary for the Project, will be made available.

(j) The Commission has advised that an exemption from the Certificate of Need requirements of Article 3, Chapter 7, Title 44 (South Carolina Code) is available and is being arranged with the South Carolina Department of Health and Environmental Control.

(k) No approvals granted in connection with the Bonds have been made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

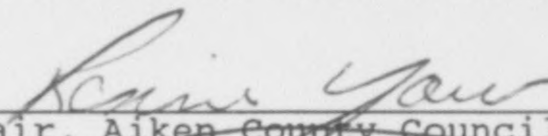
Section 2. There be and is hereby authorized and directed the submission on behalf of the County of a Petition requesting the approval of the proposal of the County to issue the Bonds by the State Budget and Control Board of South Carolina pursuant to the provisions of Section 44-7-1590 of the Act, said Petition, which constitutes and is hereby made a part of this authorizing resolution, to be in substantially the form attached hereto.

Section 3. The Chair of the County Council be and is hereby authorized and directed to execute said Petition in the name and on behalf of the County; and the Clerk of the County Council be and is hereby authorized and directed to attest the same and thereafter to submit an executed copy of this resolution to the State Budget and Control Board in Columbia, South Carolina.

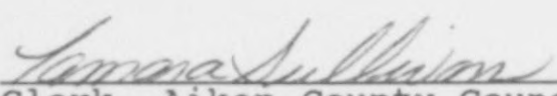
Section 4. All orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed, and this resolution shall take effect and be in full force from and after its passage and approval.

Passed and approved December 13, 1994.

AIKEN COUNTY, SOUTH CAROLINA

By: 
Chair, Aiken County Council

ATTEST:


Clerk, Aiken County Council

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT BY AND BETWEEN AIKEN COUNTY, SOUTH CAROLINA AND THE AIKEN COUNTY COMMISSION ON ALCOHOL AND DRUG ABUSE, D/B/A THE AIKEN CENTER FOR ALCOHOL AND OTHER DRUG SERVICES, WHEREBY UNDER CERTAIN CONDITIONS, AIKEN COUNTY WILL ISSUE ITS HOSPITAL REVENUE BONDS IN AN AMOUNT NOT EXCEEDING \$650,000.

WHEREAS, Aiken County, South Carolina (the "County") acting by and through its County Council (the "County Board"), is authorized and empowered under and pursuant to the provisions of Title 44, Article 11, Chapter 7, Code of Laws of South Carolina, 1976 (the "Act"), to enter into agreements with any hospital agency or public agency necessary or incidental to the issuance of bonds and to issue bonds for the purpose of defraying the cost of providing "hospital facilities" as defined in the Act, through which the public health and welfare of the people of the State of South Carolina may be promoted at the lowest possible expense; and

WHEREAS, the County is further authorized by the Act to issue revenue bonds (as defined in the Act to include notes) payable solely out of the revenues derived pursuant to a loan agreement with respect to any such project or facility and secured by a pledge of said revenues, and to enter into a security agreement covering all or any part of such project; and

WHEREAS, the Aiken County Commission on Alcohol and Drug Abuse, d/b/a the Aiken Center for Alcohol and Other Drug Services, a body corporate and politic under the laws of South Carolina (the "Commission" or the "Aiken Center"), has requested the County to issue its Hospital Revenue Bonds in an amount not exceeding \$650,000 (Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services Project) pursuant to the Act for the purpose of defraying the cost of acquisition, renovation, upfitting and improvement of office and treatment facilities (the "Project"), all as more fully set forth in the Inducement Agreement attached hereto; and

WHEREAS, the County Board has made a legislative finding that the Project would constitute "hospital facilities" as that term is defined in the Act and that the Project would subserve the purposes of the Act.

NOW, THEREFORE, BE IT RESOLVED, by the County Board as follows:

Section 1. Pursuant to the authority of the Act, subject to the approval by the State Budget and Control Board, and subject to the provisions of Title 4, Chapter 9, Code of Laws of South Carolina, 1976 (the "Home Rule Act"), and for the purpose of

defraying the cost (as defined in the Act) of acquiring and improving the Project there are hereby authorized to be issued revenue bonds of the County in the original principal amount of not exceeding \$650,000 to be designated "Aiken County, South Carolina, Hospital Revenue Bonds (Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services Project) Series 1994" (the "Bonds").

Section 2. The provisions, terms and conditions of the loan agreement by and between the County and the Commission, the provisions, terms and conditions of any indenture between the County and a trustee bank to be named and the form, details, rate of interest and maturity of the Bonds, other details of any loan agreement relating to the Bonds, and findings required by the Act shall be prescribed by subsequent resolution or ordinance of the County Board.

Section 3. The Chairman of the County Board is hereby authorized and directed to execute the Inducement Agreement attached hereto in the name and on behalf of Aiken County, and the Clerk of Council is hereby authorized and directed to affix thereto the seal of the County and to attest the same; and the Chairman of the County Board is hereby further authorized and directed to deliver said executed Inducement Agreement to the Commission.

Section 4. Prior to the issuance of the Bonds, the County Board will comply with the provisions of the Home Rule Act regarding the procedural requirements for adopting ordinances and resolutions and with the Act.

Section 5. All orders, resolutions, ordinances and parts thereof in conflict herewith are to the extent of such conflict hereby repealed. This resolution shall take effect and be in full force from and after its passage by the County Board.

Section 6. It is the intention of the County Board that this resolution shall constitute an official action on the part of the County within the meaning of the applicable regulations of the Treasury Department relating to the issuance of tax-exempt revenue bonds.

Done in meeting duly assembled this 13th day of December,
1994.

COUNTY COUNCIL OF AIKEN COUNTY,
SOUTH CAROLINA

(SEAL)

Rennie Jones
Chairman

ATTEST:

Amara Sullivan
Clerk of Council

EXHIBIT

JAN 10 1995

3

STATE BUDGET & CONTROL BOARD

INDUCEMENT AGREEMENT

THIS AGREEMENT made and entered into by and between Aiken County, a body politic and corporate and a political subdivision of the State of South Carolina (the "County"), and the the Aiken County Commission on Alcohol and Drug Abuse, d/b/a the Aiken Center for Alcohol and Other Drug Services, a body corporate and politic under the laws of the State of South Carolina (the "Aiken Center" or the "Commission").

WITNESSETH:

ARTICLE I

RECITATION OF FACTS

As a means of setting forth the matters of mutual inducement which have resulted in the making and entering into of this Agreement, the following statements of fact are herewith recited:

Section 1.01. The County is a body politic and corporate, and a political subdivision of the State of South Carolina, and is authorized and empowered by the provisions of Title 44, Article 11, Chapter 7, Code of Laws of South Carolina, 1976 (the "Act"), to enter into agreements with any hospital agency or public agency necessary or incidental to the issuance of bonds and to issue bonds (as defined in the Act to include Notes) for the purpose of defraying the cost of providing "hospital facilities" as defined in the Act, through which the public health and welfare of the people of the State of South Carolina may be promoted at the lowest possible expense;

Section 1.02. The Commission proposes to use the proceeds of the sale of the Bonds to defray a portion of the cost of the acquisition, construction, equipping, and upfitting of offices and treatment facilities in an approximately 22,000 square foot building (the "Project").

Section 1.03. The Commission has requested the County to assist it with its contemplated program through the sale of its Aiken County Hospital Revenue Bonds pursuant to the Act, whereby the County would defray certain costs of the Project.

Section 1.04. The County has given due consideration to all the proposals and requests of the Commission and has agreed to endeavor to effect the issuance of the bonds at the time and on the terms and conditions hereafter set forth.

ARTICLE II

UNDERTAKINGS ON THE PART OF THE COUNTY

The County agrees as follows:

Section 2.01. The County will, subject to the approval by the State Budget and Control Board required by the Act, and subject to the provisions of Title 4, Chapter 9, Code of Laws of South Carolina, 1976 (the "Home Rule Act"), authorize the issuance of not exceeding \$650,000 Aiken County, South Carolina, Hospital Revenue Bonds (Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services Project) Series 1994 (the "Bonds"), at such time as the Commission may request the County to do so.

Section 2.02. The proceeds from the sale of the Bonds may be applied to the payment of the costs of the Project as determined under the Act including, without limitation, the expenses incurred in connection with the issuance and sale of the Bonds, the acquisition of the Project including buildings, necessary machinery and equipment and other items permitted by the Act, and the repayment of any funds advanced or loans incurred by the Commission for such purposes.

Section 2.03. Prior to issuing the Bonds, the County may enter into a loan agreement with the Commission and a trust indenture with a trustee bank, to be named. The Bonds will be issued pursuant to a Bond Ordinance to be adopted hereafter. Such documents shall be substantially in the form used in connection with the issuance of other South Carolina hospital revenue bonds. The Loan Agreement shall impose a lien on the revenue derived from the Commission with respect to the Project to secure the payment of the Bonds.

Section 2.04. If requested by the Commission and in order to provide interim financing pending the issuance of the Bonds, the County will adopt the necessary proceedings and provide for the issuance of bond anticipation notes pursuant to Title 11, Chapter 17, Code of Laws of South Carolina, 1976, in anticipation of the issuance of the Bonds.

Section 2.05. The County will perform such other acts and adopt such further proceedings as may be required to faithfully implement its undertakings and to consummate the proposed financing.

ARTICLE III

UNDERTAKINGS ON THE PART OF THE COMMISSION

Section 3.01. The Commission agrees that the County will have no obligation to find a purchaser of the Bonds.

Section 3.02. The Commission further agrees, if the plan proceeds as contemplated, as follows:

- (a) to acquire by purchase the Project;
- (b) to enter into a loan agreement with the County, under the terms of which the Commission will obligate itself to pay to the County sums sufficient to pay the principal and interest on the Bonds, as and when the same become due and payable;
- (c) to obligate itself to make the additional payments required by the Act;
- (d) to hold the County harmless from all pecuniary liability and to reimburse it for all expenses to which it might be put in the fulfillment of its obligations under this Agreement;
- (e) to perform such further acts and adopt such further proceedings as may be required faithfully to implement its undertakings and to consummate the proposed financing; and
- (f) to covenant and agree in the loan agreement referred to above to install in the buildings which are to become a part of the Project all necessary equipment and machinery and initially to operate the Project in the manner described in Section 1.02 hereof.

ARTICLE IV

GENERAL PROVISIONS

Section 4.01. All commitments of the County under Article II hereof are subject to all of the provisions of the Act and the condition that nothing contained in this Agreement shall constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing power.

Section 4.02. The parties hereto agree that the Commission may proceed with the Project prior to the issuance of the Bonds.

Section 4.03. All commitments of the County and the Commission hereunder are subject to the condition that the County

and the Commission do agree on a mutually acceptable terms and conditions of all documents, the execution and delivery of which are contemplated by the provisions hereof.

Section 4.04. The parties understand that the Commission may choose not to finance the Project as herein provided, in which event this Agreement shall become void.

Section 4.05. This Agreement may be assigned by the Commission to another body corporate and politic.

Section 4.06. Prior to the issuance of the Bonds, the County will comply with the provisions of the Home Rule Act regarding the procedural requirements for adopting ordinances and resolutions.

Section 4.07. It is the intention of the parties hereto that this Agreement shall constitute an official action on the part of the County within the meaning of the applicable regulations of the Treasury Department relating to the issuance of tax-exempt revenue bonds.

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Agreement on the respective dates indicated below.

AIKEN COUNTY, SOUTH CAROLINA

Renée Yau
Chairman, County Council
(SEAL)

ATTEST:

Lamar Sullivan
Clerk of Council

Dated: December 27, 1994

THE AIKEN COUNTY COMMISSION ON
ALCOHOL AND DRUG ABUSE, D/B/A AS THE
AIKEN CENTER FOR ALCOHOL AND OTHER
DRUG SERVICES

By _____
Its _____

ATTEST:

By _____
Its _____
Dated: December _____, 1994

_____, 1995

County Council of Aiken County
828 Richland Avenue, W.
Aiken, South Carolina 29801

Re: \$650,000 Aiken County, South Carolina, Hospital Revenue Bonds
(The Aiken County Commission on Alcohol and Drug Abuse, d/b/a
The Aiken Center for Alcohol and Other Drug Services Project)
Series 1995

Ladies and Gentlemen:

We have acted as Bond Counsel in connection with the issuance of \$650,000 aggregate original principal amount Hospital Revenue Bonds (The Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services Project) Series 1995 (the "Bonds"), by Aiken County, South Carolina (the "Issuer"), under an Indenture, dated as of _____, 1995 (the "Indenture"), between the Issuer and NationsBank of South Carolina, N.A., as Lender (the "Lender"). The Bonds are being issued pursuant to South Carolina Code Annotated Title 44, Chapter 7, Article 11 (the "Act"), and an Ordinance of the Issuer, adopted on _____, 1994 (the "Ordinance"), for the purpose of defraying a portion of the costs of acquiring, renovating, upfitting and improving office and substance abuse treatment facilities (the "Project") located in Aiken County, South Carolina. Pursuant to a Loan Agreement, dated as of _____, 1994 (the "Agreement"), between the Issuer and Aiken County Commission on Alcohol and Drug Abuse, d/b/a Aiken Center for Alcohol and Other Drug Services, a body corporate and politic under the laws of the State of South Carolina (the "Commission"), the Issuer will loan the proceeds derived from the sale of the Bonds to the Commission to induce the Commission to acquire, renovate, upfit and improve the Project.

The Bonds are dated _____, 1995, bear interest from such date payable on _____, 199__ and on each _____ 1 and _____ 1 thereafter until maturity or prior redemption, and mature on _____ 1. The Bonds are issuable only as fully registered bonds in denominations of \$5,000 or any integral multiple thereof.

Page 2

Executed counterparts of the Indenture and the Agreement are on file with the Lender and reference may be had thereto for a detailed statement of the terms and conditions thereof and of the rights and obligations of the parties thereto. Reference is hereby made to the Indenture and to all indentures supplemental thereto for the provisions, among others, with respect to the nature and content of the security for the Bonds, the terms upon which the Bonds are issued, and the conditions which permit the issuance of additional bonds on a parity of security with the Bonds.

Pursuant to a Mortgage and Security Agreement dated as of _____
 __ __, 1994 (the "Mortgage") from the Commission in favor of the
 Lender, the Commission will, upon acquisition, mortgage certain
 real property and grant a security interest in certain personal
 property to the Lender, subject to certain Permitted Encumbrances
 (as defined in the Mortgage).

Based upon the foregoing, it is our opinion, under existing law, that:

EXHIBIT

JAN 10 1995

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County Council of Aiken County
_____, 1994

STATE BUDGET & CONTROL BOARD

Page 3

1. The Issuer has the power to enter into and perform the Indenture and the Agreement and to issue the Bonds.

2. The Ordinance has been duly adopted by the Issuer and is in full force and effect.

3. The Agreement and the Indenture have been duly authorized, executed, and delivered by the Issuer and are valid and binding obligations of the Issuer enforceable in accordance with their terms. Under the Agreement, the Commission has agreed to make payments sufficient to pay when due the principal of and premium, if any, and interest on the Bonds. Pursuant to the Indenture, such payments and other revenues derived from the Project (collectively, the "Revenues") and the rights of the Issuer under the Agreement (except certain rights to indemnification and reimbursement) have been duly and legally assigned and pledged by the Issuer to the Lender as security for the Bonds and are subject to no prior lien.

4. The Bonds have been duly authorized, executed, and delivered by the Issuer and are valid and binding limited obligations of the Issuer, payable solely from the Revenues and from the moneys held in the funds and accounts established under the Indenture.

5. Neither the faith and credit nor the taxing power of the Issuer, the State of South Carolina, or any other political subdivision thereof is pledged to the payment of the principal of or premium, if any, or interest on the Bonds.

6. The interest on the Bonds is excluded from gross income for federal income tax purposes. Interest on the Bonds is not a specific preference item for purposes of the federal individual and corporate alternative minimum taxes; however, such interest is included in adjusted current earnings in calculating federal corporate alternative minimum taxable income. The opinion set forth in this paragraph is subject to the condition that the Issuer and the Commission comply with all requirements of the Code including, without limitation, the obligation to rebate certain earnings on investments of proceeds to the United States Government, that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The Issuer and the Commission have covenanted to comply with each such

EXHIBIT

JAN 10 1995

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County Council of Aiken County
_____, 1994

STATE BUDGET & CONTROL BOARD

Page 4

requirement. Failure to comply with certain of such requirements may cause the inclusion of interest on the Bonds in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

7. Under existing law, the interest on the Bonds is exempt from present State of South Carolina income taxes. It should be noted however, that Section 12-11-20, Code of Laws of South Carolina 1976, as amended, imposes upon every bank engaged in business in the State a fee or franchise tax computed on the entire net income of such bank which includes interest paid on the Bonds.

8. The Bonds are exempt from registration under the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Indenture Act of 1939, as amended.

It is to be understood that the rights of the owners of the Bonds and the enforceability of the Bonds, the Indenture, the Agreement, the Mortgage and the other instruments enumerated above may be subject to bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,

McNAIR & SANFORD, P.A.

By: _____

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

EXHIBIT

JAN 10 1995

3

STATE BUDGET & CONTROL BOARD

CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL



P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

December 28, 1994

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Alice Broadwater; Wayne Rush
FROM: Donna Kaminer Williams *DKW*
SUBJECT: Review of Revenue Bond Proposal

Enclosed is the following proposal for the issuance of bonds which has been submitted for the Tuesday, January 10, 1995, Budget and Control Board agenda:

Aiken County
650,000 Hospital Revenue Bonds
The Aiken County Commission on Alcohol and Drug Abuse d/b/a
The Aiken Center for Alcohol and Other Drug Services project

For this proposal to be included on the January 10 agenda, I must have the written results of your review before 9:30 a.m. on Thursday, January 5, 1995.

DKW/laf
Enclosure

003969

McNAIR & SANFORD, P.A.
ATTORNEYS AND COUNSELORS AT LAW

NATIONSBANK TOWER/1301 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

MAILING ADDRESS:
POST OFFICE BOX 11390
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE 803/799-9800
FACSIMILE 803/799-9804

CHARLESTON OFFICE
140 EAST BAY STREET
POST OFFICE BOX 1431
CHARLESTON, SC 29402
TELEPHONE 803/723-7831
FACSIMILE 803/722-3227

GEORGETOWN OFFICE
121 SCREVEN STREET
POST OFFICE DRAWER 418
GEORGETOWN, SC 29442
TELEPHONE 803/546-6102
FACSIMILE 803/546-0096

GREENVILLE OFFICE
NATIONSBANK PLAZA
SUITE 601
7 NORTH LAURENS STREET
GREENVILLE, SC 29601
TELEPHONE 803/271-4940
FACSIMILE 803/271-4015

RALEIGH OFFICE
234 FAYETTEVILLE STREET MALL
SUITE 100
POST OFFICE BOX 2447
RALEIGH, NC 27602
TELEPHONE 919/755-1800
FACSIMILE 919/890-4180

SPARTANBURG OFFICE
SPARTAN CENTRE/SUITE 306
101 WEST ST. JOHN STREET
POST OFFICE BOX 5137
SPARTANBURG, SC 29304
TELEPHONE 803/542-1300
FACSIMILE 803/542-0705

WASHINGTON OFFICE
MADISON OFFICE BUILDING
SUITE 400
1155 FIFTEENTH STREET, NORTHWEST
WASHINGTON, DC 20005
TELEPHONE 202/659-3900
FACSIMILE 202/659-5783

January 5, 1995

VIA HAND DELIVERY

Ms. Donna Kaminer Williams
Board Secretary
State Budget and Control Board
601 Wade Hampton Building
Columbia, South Carolina 29211

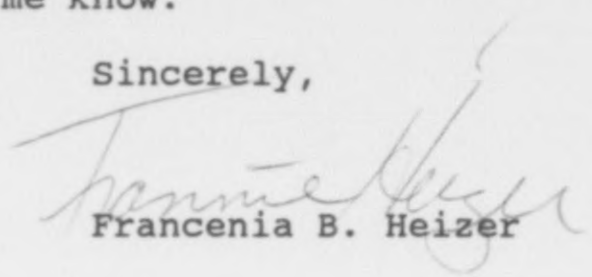
RE: Aiken County, South Carolina, Hospital Revenue
Bonds, Series 1995, \$650,000
File No. 023210.00001

Dear Ms. Williams:

Enclosed are the original and five (5) copies of the Budget and Control Board Resolution and Public Notice for execution by the Board. As you can see from the enclosed letter to Wayne Rush, this Resolution has been revised to delete any reference as to a finding by the Board regarding treatment beds and a Certificate of Need.

If you have any questions or require any further documentation, please let me know.

Sincerely,


Francenia B. Heizer

FBH:lar

Enclosures

cc: Robert M. Bell, Esquire
Mr. Terry Brown
Richard L.C. Sullivan, Esquire

003970

McNAIR & SANFORD, P.A.
ATTORNEYS AND COUNSELORS AT LAW

NATIONSBANK TOWER/1301 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

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WASHINGTON OFFICE
MADISON OFFICE BUILDING
SUITE 400
1155 FIFTEENTH STREET NORTHWEST
WASHINGTON, DC 20005
TELEPHONE 202/659-3900
FACSIMILE 202/659-5763

January 4, 1995

EXHIBIT

VIA FACSIMILE (803) 737-0592

JAN 10 1995

3

STATE BUDGET & CONTROL BOARD

Wayne F. Rush, Esquire
South Carolina State Budget and
Control Board
1201 Main Street, Suite 420
Columbia, South Carolina 29201

RE: Aiken County, South Carolina, Hospital Revenue
Bonds, Series 1995, \$650,000
File No. 023210.00001

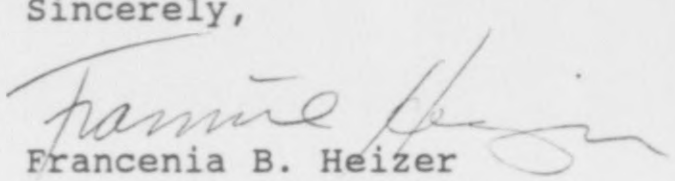
Dear Wayne:

Pursuant to our telephone conversation of this date, attached is a revised Resolution for the State Budget and Control Board in regard to the above-referenced matter. As we discussed, I have deleted any reference as to a finding by the Board regarding treatment beds and a Certificate of Need.

I am having revised execution copies of this Resolution hand delivered to Donna Williams.

I appreciate your assistance in this matter. If you have any questions or require anything further from me, please let me know.

Sincerely,


Francenia B. Heizer

FBH:lar

Attachment

cc: Robert M. Bell, Esquire
Mr. Terry Brown
Ms. Donna Kaminer Williams
Richard L.C. Sullivan, Esquire

003971

EXHIBIT

JAN 10 1995

3

STATE BUDGET & CONTROL BOARD

Aiken Standard

Aiken, South Carolina 29801

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Personally appeared before me

.....RENÉE RHOADS.....
of the Aiken Standard, a seven day per
week newspaper published in Aiken, South
Carolina, and made oath in due form of
law that the Advertisement of

.....NOTICE PURSUANT.....
.....TO THE PROVISIONS OF SOUTH.....
appeared in the Aiken Standard on the
following dates, vis:.....

.....JANUARY 16, 1995.....

.....Renee Rhoads.....
SWORN and subscribed to before me this
17th day of JANUARY.....1995.

.....Ellen L. Priest.....
Notary Public
for the State of South Carolina

My Commission Expires October 26, 1998

NOTICE PURSUANT TO THE PROVISIONS OF SOUTH CAROLINA CODE ANNOTATED, TITLE 44, CHAPTER 7, ARTICLE 11 (1978), AS AMENDED

Notice is hereby given pursuant to the provisions and requirements of Section 44-7-1590 of South Carolina Code Annotated, Title 44, Chapter 7, Article 11 (1978), as amended (the "Act"), that the State Budget and Control Board of South Carolina, pursuant to a Petition filed by the County Council of Aiken County, South Carolina, has given its approval to the following undertaking by Aiken County, South Carolina:

The issuance by Aiken County of its Hospital Revenue Bonds (Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services Project) Series 1995, in the original principal amount of \$650,000 (the "Bonds"), to defray the cost of acquiring, constructing and equipping a 20,000 square foot facility consisting of a two-story main building with two annexing one-story wings and approximately 100 parking spaces. The facility will be located on approximately 20 acres located at 1105 Gregg Highway, Aiken, South Carolina (the "Project") to be used by the Aiken County Commission on Alcohol and Drug Abuse, d/b/a The Aiken Center for Alcohol and Other Drug Services, a body politic and corporate of the State of South Carolina (the "Commission"). The Project will be used by the Commission as office and substance abuse treatment facilities. The Bonds proceeds will be made available to the Commission pursuant to a loan agreement between the County and the Commission (the "Loan Agreement"), under which the Commission will unconditionally covenant to make payments sufficient to pay the principal and interest on the Bonds. The Bonds will be payable solely and exclusively out of payments to be made by the Commission and the Bonds are to be additionally secured by a mortgage and security interest in the Project granted under the terms of a mortgage and security agreement (the "Mortgage") between the Commission and a trustee bank to be named.

Pursuant to a petition filed with the State Budget and Control Board, the County Council has found that (a) there is a need for the Project in the area, (b) the Commission is financially responsible and capable of fulfilling its obligations with respect to the Bonds, the Project, the Loan Agreement and the Mortgage, (c) adequate provision has been made for payment of the Bonds and operation of the Project and (d) adequate public facilities, including utilities necessary for the Project, will be made available.

Notice is further given that any interested party may, within twenty (20) days after the date of the publication of this notice, or not afterwards, challenge the validity of the State Budget and Control Board's approval of the Project and the issuance of the Bonds by Aiken County to finance the same, by action de novo instituted in the Circuit Court for Aiken County, South

Carolina.
STATE BUDGET AND
CONTROL BOARD
BY: DONNA K. WILLIAMS, Secretary
Dated: January 16, 1995

003972

EXHIBIT

JAN 10 1995

3

STATE BUDGET & CONTROL BOARD

MCNAIR & SANFORD, P.A.
ATTORNEYS AND COUNSELORS AT LAW
NATIONSBANK TOWER
1301 GERVAIS STREET
POST OFFICE BOX 11390
COLUMBIA, SOUTH CAROLINA 29211
803-799-9800
FAX: 803-376-2277

FAX COVER LETTER

DATE: March 28, 1995FROM: Laura A. Roberts, PLSEXTENSION: 306CLIENT/
MATTER NUMBER: 023210.00001

COMMENTS:

TO: Ms. Donna WilliamsState Budget and Control BoardFAX NUMBER: (803) 734-2117TOTAL NUMBER OF
PAGES (INCLUDING
COVER): Two (2)

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

M&S4/1/93

EXHIBIT

JAN 10 1995

4

STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
BLUE AGENDA
ITEM NUMBER 4

AGENCY: Jobs-Economic Development Authority

SUBJECT: Economic Development Bonds

The Jobs-Economic Development Authority requests Board approval of the private sale of Economic Development Revenue Bonds for the following projects and asks that an allocation of a portion of the State Ceiling be made for each:

- (a) Name of Project: EuroKera North America, Inc.
Location: Greenville County
Principal Amount: \$9,000,000
Allocation Amount: \$9,000,000
Employment Impact: approximately 30 within 12 months; 20 more within 24 months
Purpose: decorating and ceraming glass cooktops for the appliance industry
- (b) Name of Project: Herrenknecht Corporation
Location: Spartanburg County
Principal Amount: \$2,000,000
Allocation Amount: \$2,000,000
Employment Impact: approximately 4 within 12 months and 14 within 24 months
Purpose: manufacture of component parts for tunnelling systems
- (c) Name of Project: Venture Packaging, Inc.
Location: Anderson County
Principal Amount: \$9,500,000
Allocation Amount: \$9,500,000
Employment Impact: approximately 80 within 12 months and 100 within 24 months
Purpose: manufacture plastic products

BOARD ACTION REQUESTED:

Adopt resolutions approving the private sale of Economic Development Revenue Bonds by the Jobs-Economic Development Authority for the referenced projects; and allocate a portion of the state ceiling to each project.

ATTACHMENTS:

Referenced resolutions

003874

EXHIBIT

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TRANSMITTAL FORM, REVENUE BONDS

JAN 10 1995

TO: Donna Kaminer Williams, Board Secretary
State Budget and Control Board
601 Wade Hampton Building
Columbia, SC 29201

DATE: STATE BUDGET & CONTROL BOARD
December 27, 1994

Submitted for BCB Meeting on:
January 10, 1995

OR P.O. Box 12444, Columbia, SC 29211

FROM:

McNAIR & SANFORD, P.A.

RE:

N/E \$9,000,000

Name of Law Firm

Suite 601, NationsBank Plaza

Amount of Issue

S.C. Jobs-Economic Development

Street Address/Box Number

Greenville, SC 29601

Name of Issuing Authority

Economic Development Revenue

City, State, Zip Code

(803) 271-4940

Type of Bonds or Notes

March 1995

Area Code/Telephone Number

Projected Issue Date

Project Name: EuroKera North America Inc. Project

Project Description: manufacturing facility to decorate and ceram glass cooktops for the
appliance industry

Employment as a result of the project: app. 30 within 12 mos. & 20 more within 24 mos.

Ceiling Allocation Required

Refunding Involved

Project Approved Previously

X Yes (\$ 9,000,000) No

Yes (\$) X No

Yes (\$) X No

Amount

Amount

Amount

Documents enclosed (executed original and two copies of each):

(ALL documents required for state law approval; A and C only for ceiling allocation only.)

A. ☒ Petition

B. ☒ Resolution or Ordinance

C. ☒ Inducement Resolution or comparable preliminary approval

D. ☐ Department of Health and Environmental Control Certificate if required

E. ☒ Budget and Control Board Resolution and Public Notice (original)
Plus 5 copies for certification and return to bond counsel

F. ☒ Draft bond counsel opinion letter

G. ☐ Processing Fee N/A

Amount: \$ Check No:

Payor:

Bond Counsel: Kathleen Crum McKinney, Esq.

Typed Name of Bond Counsel

By:



Signature

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

EuroKera North America Inc.

I, DONNA KAMINER WILLIAMS, SECRETARY to the South Carolina State Budget and Control Board, DO HEREBY CERTIFY:

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

His Excellency, Carroll A. Campbell, Jr., Governor and Chairman of the Board;

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

The Honorable Earle E. Morris, Jr., Comptroller General;

The Honorable John Drummond, Chairman of the Senate Finance Committee; and

The Honorable Henry E. Brown, Jr., Chairman of the House Ways and Means Committee.

That due notice of a meeting of the Board, called to be held in Columbia, South Carolina, at 9:30 a.m. on Tuesday, January 10, 1995, was given to all members in writing at least four days prior to the meeting and that, in compliance with the Freedom of Information Act, public notice of and the agenda index 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, in the lobby of the Wade Hampton Office Building, and near the Board Secretary's Office on the Sixth Floor of the Wade Hampton Office Building at 4:30 p.m. on Friday, January 6, 1995.

That all members of the Board were present at the meeting.

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

FOR MOTION

5

AGAINST MOTION

0

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

January 10, 1995

Donna Kaminer Williams

003976

A RESOLUTION APPROVING THE ISSUANCE BY THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY THROUGH PRIVATE SALE OF NOT EXCEEDING \$9,000,000 ECONOMIC DEVELOPMENT REVENUE BONDS (EUROKERA NORTH AMERICA INC. PROJECT), PURSUANT TO THE PROVISIONS OF SECTION 41-43-110 OF SOUTH CAROLINA CODE ANNOTATED, TITLE 41, CHAPTER 43 (1976), AS AMENDED.

WHEREAS, the South Carolina Jobs-Economic Development Authority (the "Authority") has heretofore under and pursuant to the provisions of Section 41-43-110 of South Carolina Code Annotated, Title 41, Chapter 43 (1976), as amended (the "Act"), requested approval by the State Budget and Control Board of the issuance by the Authority pursuant to the Act of its Economic Development Revenue Bonds (EuroKera North America Inc. Project), in the aggregate principal amount of not exceeding \$9,000,000 (the "Bonds"); and

WHEREAS, the Issuer proposes to issue the Bonds for the purpose of defraying the cost of acquiring, by construction and purchase, a building or buildings, other improvements, and certain machinery, apparatus, equipment, office facilities and furnishings (the "Project") to be used for a facility to decorate and ceram glass cooktops for the appliance industry; and

WHEREAS, the Project is to be made available to EuroKera North America Inc. (the "Company") upon terms which require the Company to make payments to or for the account of the Issuer in amounts sufficient to pay the principal and interest on the Bonds; and

NOW, THEREFORE, BE IT RESOLVED, by the State Budget and Control Board of the State of South Carolina, as follows:

Section 1. It is hereby found, determined and declared by the Board that: the Petition filed by the Authority contains all matters required by law and the rules of this Board to be set forth therein, and that in consequence thereof the jurisdiction of this Board has been properly invoked under and pursuant to Section 41-43-110 of the Act.

Section 2. In consequence of the foregoing, the proposal of the Authority to defray the cost of acquiring the Project, to make the Project available to the Company, to finance the cost thereof and expenses incidental thereto by the execution and delivery of the Bonds, secured by an assignment of the revenues to be derived from the Loan Agreement, be and the same is hereby in all respects approved. This approval shall not be affected by any changes in the details of the proposal of the Issuer so long as such changes do not impose a pecuniary liability upon the Issuer or its general credit or taxing power, are approved by the Board of Directors of the Authority and the Company, and do not make inaccurate, except as to dates and amounts, the summaries of the Loan Agreement and the Indenture and the description of the Project.

Section 3. This Resolution shall take effect immediately.

The State of South Carolina



Office of the Attorney General

EXHIBIT

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3680
FACSIMILE: 803-253-6283

January 4, 1995

Donna Williams
Secretary to the Board
State Budget and Control Board
612 Wade Hampton Office Building
Post Office Box 12444
Columbia, South Carolina 2921

Re: Jobs-Economic Development Authority
Not Exceeding \$9,000,000 Economic Development Revenue Bonds
EuroKera North America Inc. project

Dear Ms. Williams:

This Office has received the letter you have forwarded to us regarding the EuroKera North America Inc. project.

Please be advised that to the knowledge of this Office there is no known litigation of any nature, now pending or threatened, that would restrain or enjoin the issuance and delivery of the Bonds, nor in any manner question the proceedings and authority under which the same is made or affect the validity of the Bonds thereunder.

No opinion is expressed as to any matters other than as set forth herein. Specifically no opinion is expressed as to any business judgment decisions in relation to this transaction.

Office of the Attorney General

By: Allen C. Brundwater

ACB/fg

003978

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



CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

1201 MAIN STREET, SUITE 420
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-3880
(803) 737-0592 Fax

HELEN T. ZEIGLER
DIRECTOR

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

January 5, 1995

The Honorable Donna K. Williams
Secretary
S. C. Budget and Control Board
601 Wade Hampton Office Building
Columbia, South Carolina 29201

RE: Jobs-Economic Development Authority
Not Exceeding \$9,000,000 Economic Development Revenue Bonds
EuroKera North America Inc. Project

Dear Mrs. Williams:

We have received the Revenue Bonds Transmittal Form and other items regarding the referenced proposed bonds.

These documents have been submitted by Bond Counsel, McNair and Sanford, P.A. and upon review of the Petition to the Budget and Control Board, the proposed Resolution of the Budget and Control Board and the draft of the Opinion of Bond Counsel appear to be in good order. Of course, we express no opinion as to the merits of the bond issue or the validity of the information recited in these documents as we have not acted in a capacity which would enable us to have knowledge adequate to form such an opinion. We have merely reviewed the documents form and they appear to meet the conditions imposed by State law that certain matters be addressed in the documentation.

Sincerely,

A handwritten signature in cursive script that reads "Wayne F. Rush".

Wayne F. Rush
General Counsel

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EXHIBIT

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

)
TO THE STATE BUDGET AND CONTROL) PETITION OF SOUTH
) CAROLINA JOBS-ECONOMIC
BOARD OF SOUTH CAROLINA) DEVELOPMENT AUTHORITY
_____)

This Petition of the South Carolina Jobs-Economic Development Authority (the "Authority"), pursuant to South Carolina Code Annotated, Title 41, Chapter 43 (1976), as amended (the "Act"), and specifically Section 41-43-110 thereof, respectfully shows:

1. The Act, among other things, empowers the Authority: (i) to acquire and, in connection with such acquisition, to enlarge, improve and expand, whether by construction, purchase, gift or lease, one or more business enterprises (as referred to in Section 41-43-160 of the Act) which shall be located within the jurisdiction of the State of South Carolina; (ii) to make available to any business enterprise located in South Carolina such projects for such payments and upon such terms and conditions as the Authority may deem advisable and as shall not conflict with the provisions of the Act; and (iii) subject to the approval of the State Budget and Control Board of the issuance of its bonds through public or private sale pursuant to Section 41-43-110 of the Act, to issue revenue bonds, as defined in the Act to include notes, for the purpose of defraying the cost of acquiring, by construction and purchase, and in connection with any such acquisition, to enlarge, improve and expand any project and to secure the payment of such bonds, all as in the Act provided.

2. The Authority has agreed to assist EuroKera North America Inc., a Delaware corporation (the "Borrower"), by issuing its revenue bonds for the purpose of financing the acquisition and construction of certain facilities for a facility to decorate and ceram glass cooktops for the appliance industry, constituting an industrial facility (the "Project") located in Greenville County, South Carolina.

3. The undersigned Executive Director of the Authority certifies that approval of this Project was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

4. The Authority has been advised by the Borrower that the estimated cost of financing the Project will be not exceeding \$9,000,000, and the Borrower has requested the Authority to execute and deliver its Economic Development Revenue Bonds (EuroKera North America Inc. Project) (the "Bonds") in the aggregate principal amount of not exceeding \$9,000,000.

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5. The Bonds will be purchased by Thornton, Farish & Gauntt, as underwriter, for public distribution thereafter, which arrangement the Authority has determined to be most advantageous.

6. Pursuant to Section 41-43-150 of the Act, the Authority has made the requisite findings that:

(a) The Borrower is engaged in the business of decorating and ceraming glass cooktops for the appliance industry and the Project is located in Greenville County, South Carolina.

(b) The Project constitutes a "business enterprise" as said term is referred to in Section 41-43-160 of the Act, and the issuance of the Bonds in the aggregate principal amount of not exceeding \$9,000,000 to finance the Project will subserve the purposes and in all respects conform to the provisions and requirements of the Act.

(c) It is anticipated that the Project will benefit the general public welfare of the State of South Carolina, and Greenville County in particular, by providing employment for approximately 30 people within 12 months and an additional 20 people within 24 months from Greenville County and adjacent areas, with a resulting alleviation of unemployment and a substantial increase in payrolls and other public benefits incident to the conduct of such businesses not otherwise provided locally, and the number of jobs resulting from the assistance authorized herein bears a reasonable relationship to the principal amount of the Bonds.

(d) The size and scope of the Project is such that a definite benefit to the economy of the State of South Carolina, and Greenville County in particular, is reasonably expected to result therefrom.

Prior to issuance of the Bonds, the Authority will, as part of its proceedings:

(a) Require a resolution from the governing body of Greenville County containing the following findings: (1) that the Project will subserve the purposes of the Act; (2) that the Project is anticipated to benefit the general public welfare of Greenville County by providing services, employment, or other public benefits not otherwise provided locally; (3) that the Project will give rise to no pecuniary liability of Greenville County or a charge against its general credit or taxing power; and (4) the amount of bonds required to finance the Project;

(b) Hold a public hearing in Greenville County in connection with such resolution;

(c) Make findings that the terms of the agreements to be entered into in connection with the Project are reasonable and proper as to the adequacy of protection for the public interest provided by such terms;

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INDUCEMENT AGREEMENT**STATE BUDGET & CONTROL BOARD**

THIS AGREEMENT made and entered into by and between the SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY, a public body corporate and politic and an agency of the State of South Carolina (the "Authority"), and EUROKERA-NORTH AMERICA INCORPORATED, a Delaware corporation (the "Borrower").

WITNESSETH:**ARTICLE I****RECITATION OF FACTS**

As a means of setting forth the matters of mutual inducement which have resulted in the making and entering into of this Agreement, the following statements of fact are herewith recited:

Section 1.01. The Authority, acting by and through its Board of Directors, is authorized and empowered under and pursuant to the provisions of Title 41, Chapter 43 of the Code of Laws of South Carolina 1976, as amended (the "Act"), to utilize any of its program funds to establish loan programs for the purpose of reducing the cost of capital to business enterprises which meet the eligibility requirements of Section 41-43-150 of the Act and for other purposes described in Section 41-43-160 of the Act and thus provide maximum opportunities for the creation and retention of jobs and improvement of the standard of living of the citizens of the State of South Carolina and in the promotion and advancement of industrial, commercial, agricultural, and recreational development in the State of South Carolina.

Section 1.02. The Authority is further authorized by Section 41-43-110 of the Act to issue revenue bonds, as defined in the Act to include notes, payable by the Authority solely from a revenue producing source and secured by a pledge of said revenues in order to provide funds for any program authorized by the Act.

Section 1.03. The Borrower has applied to the Authority to issue approximately \$9,000,000 of its economic development revenue bonds or notes in order to defray the cost of acquiring by construction or purchase a building or buildings, other improvements, and machinery, apparatus, equipment, office facilities, and furnishings to be installed therein to decorate and ceram glass cooktops for the appliance industry (the "Project") to be located in Greenville County, South Carolina, and the Authority wishes to induce the Borrower to acquire and construct the Project within the State of South Carolina.

Section 1.04. (a) The Borrower is a responsible party engaged in equipping a finishing facility to decorate and ceram glass cooktops for the appliance industry. The Project is located in Greenville County, South Carolina.

(b) The Borrower has demonstrated to the Authority that the assistance of the Authority by the issuance of its economic development revenue bonds or notes will result in the creation or maintenance of employment for those engaged in construction of the Project, by providing full-time employment for approximately 30 people within 12 months and an additional 20 people within 24 months from Greenville County and adjacent areas when the Project is placed in full operation, with a resulting alleviation of unemployment and a substantial increase in payrolls and other public benefits incident to the conduct of such businesses not otherwise provided locally, and the number of jobs resulting from the assistance authorized herein bears a reasonable relationship to the principal amount of the Bonds (as described below).

(c) The principal amount of the Bonds bears a reasonable relationship to the amount of private funds committed to the Project.

(d) The size and scope of the Project is such that a definite benefit to the economy of the State of South Carolina, and Greenville County in particular, is reasonably expected to result therefrom.

Section 1.05. The Authority has given due consideration to all the proposals and requests of the Borrower and has agreed to endeavor to effect the issuance of the bonds or notes at the time and on the terms and conditions hereafter set forth.

ARTICLE II

UNDERTAKING ON THE PART OF THE AUTHORITY

The Authority agrees as follows:

Section 2.01. The Authority will, subject to such approval by the State Budget and Control Board and the governing body of Greenville County, South Carolina, as may be required by law and subject to the limitations set forth herein, authorize the issuance of not exceeding \$9,000,000 Economic Development Revenue Bonds (or Notes) (EuroKera-North America Incorporated Project) (the "Bonds"), at such time as the Borrower may request the Authority to do so.

Section 2.01. The Authority will permit the Borrower to arrange for the sale of the Bonds to defray certain costs of the Project as aforesaid and if successful marketing arrangements can be made, it will adopt such proceedings and enter into such agreements as are necessary for the issuance and securing of the Bonds.

Section 2.03. The proceeds of any sale of the Bonds may be applied to the payment of the costs of the Project as determined under the Act including, without limitations, the expenses

incurred in connection with the issuance and sale of the Bonds, the acquisitions of the Project including buildings, necessary machinery and equipment, and other items permitted by the Act, and the repayment of any funds, advances, or loans incurred by the Borrower for such purposes.

Section 2.04. Prior to issuing the Bonds, the Authority may enter into a loan agreement with the Borrower and a security agreement with the trustee (to be requested by the Borrower and approved by the Authority and the State Treasurer) or with the purchasers of the Bond, pursuant to which the Bonds will be secured and issued. Such documents shall be substantially in the form used in connection with the issuance of other South Carolina industrial development revenue bonds and shall constitute a lien on the revenues derived from the Borrower with respect to the Project to secure the payment of the Bonds. Provisions, terms, and conditions of the agreements to be entered into in connection with the issuance of the Bonds by the Authority, and the form, details, rate or rates of interest, maturity, redemption provisions, if any, of the Bonds, and other details of any loan agreement relating to the Bonds, shall be prescribed by subsequent resolution of the Authority and shall be reasonable and proper, taking into account such facts as type of program involved, the principal amount of the bonds, and the number and type of jobs involved; the public interest shall be adequately protected by the terms thereof.

Section 2.05. The Authority will perform such other acts and adopt such further proceedings as may be required faithfully to implement its undertaking and to consummate the proposed financing.

Section 2.06. The undertakings of the Authority hereunder are contingent upon the Authority continuing to evaluate the Project as beneficial to the public interest after considering all additional circumstances of which the Authority may hereafter become aware and upon the Borrower providing the Authority with such further evidence as may be satisfactory to the Authority as to compliance with all applicable statutes and regulations.

ARTICLE III

UNDERTAKINGS ON THE PART OF THE BORROWER

Section 3.01. The Borrower agrees that the Authority will have no obligation to find a purchaser of the Bonds and acknowledges that the Authority's approval of this Agreement is preliminary and is conditioned upon the Authority continuing to evaluate the Project as beneficial to the public interest after considering all additional circumstances of which the Authority may hereafter become aware.

Section 3.02. The Borrower further agrees, if the plan proceeds as contemplated, as follows:

- (a) to acquire the Project;

(b) to enter into a loan agreement with the Authority, under the terms of which the Borrower will obligate itself to pay to the Authority sums sufficient to pay the principal, interest and premium, if any, on the Bonds, as and when the same become due and payable;

(c) to hold the Authority harmless from all pecuniary liability and to reimburse it for all expenses to which it might be put in the fulfillment of its obligations under this Agreement;

(d) to perform such further acts and adopt such further proceedings as may be required faithfully to implement its undertakings and to consummate the proposed financing; and

(e) to covenant and agree in the loan agreement referred to above to install in the buildings which are to become a part of the Project all necessary equipment and machinery and initially to operate the Project in the manner described in Section 1.03 hereof.

ARTICLE IV

GENERAL PROVISION

Section 4.01. All commitments of the Authority under Article II hereof are subject to all of the provisions of the Act and regulations of the Authority pursuant thereto and the conditions that nothing contained in this Agreement shall constitute nor give rise to a pecuniary liability of the Authority or a charge against its general credit.

Section 4.02. The parties hereto agree that the Borrower may proceed with the Project including the acquisition of land, the construction of a building or buildings, and the acquisition and installation of the equipment and machinery, prior to the issuance of Bonds.

Section 4.03. All commitments of the Authority and the Borrower hereunder are subject to the condition that the Authority and the Borrower do agree on mutually acceptable terms and conditions of all documents, the execution and delivery of which are contemplated by the provisions hereof.

Section 4.04. The parties understand that the Borrower or the Authority may choose not to finance the Project as herein provided, in which event this Agreement shall become void.

Section 4.05. This Agreement may be assigned by the Borrower to any of its corporate affiliates, any subsidiary corporation organized under the laws of any state of the United States to be formed, any partner or shareholder in the Borrower, or to any company in which the Borrower or one or more of its partners or shareholders has an interest (any of the foregoing being referred to hereinafter as a "Related Company"), or any person or company which is willing to lease the Project to the Borrower or any Related Company.

EXHIBIT

JAN 10 1995

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EUROKERA-NORTH AMERICA
INCORPORATED

By: S/

Its: _____

(SEAL)

ATTEST:

By: _____

Its: _____

Dated: October 26, 1994

GRVL:26086

003588

A RESOLUTION AUTHORIZING THE EXECUTION ~~AND~~ BUDGET & CONTROL BOARD DELIVERY OF AN INDUCEMENT AGREEMENT BY AND BETWEEN THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY AND EUROKERA-NORTH AMERICA INCORPORATED, WHEREBY UNDER CERTAIN CONDITIONS THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY WILL ISSUE APPROXIMATELY \$9,000,000 OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS OR NOTES PURSUANT TO THE PROVISIONS OF TITLE 41, CHAPTER 43, OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, AND AUTHORIZING THE APPLICATION UPON CERTAIN CONDITIONS TO THE STATE BUDGET AND CONTROL BOARD OF SOUTH CAROLINA FOR APPROVAL OF THE ISSUANCE OF SUCH BONDS.

WHEREAS, the South Carolina Jobs-Economic Development Authority (the "Authority"), acting by and through its Board of Directors is authorized and empowered under and pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as amended (the "Act"), to utilize any of its program funds to establish loan programs for the purpose of reducing the cost of capital to business enterprises which meet the eligibility requirements of Section 41-43-150 of the Act and for other purposes described in Section 41-43-160 of the Act and thus provide maximum opportunities for the creation and retention of jobs and improvement of the standard of living of the citizens of the State of South Carolina and in the promotion and advancement of industrial, commercial, agricultural, and recreational development in the State of South Carolina; and

WHEREAS, the Authority is further authorized by Section 41-43-110 of the Act to issue revenue bonds, as defined in the Act to include notes, payable by the Authority solely from a revenue producing source and secured by a pledge of said revenues in order to provide funds for any program authorized by the Act; and

WHEREAS, EuroKera-North America Incorporated, a Delaware corporation (the "Borrower"), has applied to the Authority to issue approximately \$9,000,000 of its economic development revenue bonds or notes in order to defray the cost of acquiring by construction or purchase a building or buildings, other improvements, and machinery, apparatus, equipment, office facilities and furnishings to be installed therein to decorate and ceram glass cooktops for the appliance industry, constituting an industrial facility (the "Project") to be located in Greenville County, South Carolina, and the Authority wishes to induce the Borrower to acquire and construct the Project within the State of South Carolina; and

WHEREAS, it is in the public interest, for the public benefit and in furtherance of the public purposes of the Authority that its Board of Directors provide preliminary approval of the issuance of economic development revenue bonds for the aforesaid purposes; and

WHEREAS, it is deemed advisable by the Authority to file with the State Budget and Control Board of South Carolina, in compliance with Section 41-43-110 of the Act, the Petition of the Authority requesting approval by the State Budget and Control Board for the issuance of the notes or bonds at public or private sale upon receipt by the Authority from the Borrower of evidence satisfactory to the Authority of the economic feasibility of the Project;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

Section 1. It is hereby found, determined, and declared as follows:

(a) The Borrower is a responsible party engaged in building and equipping a finishing facility to decorate and ceram glass cooktops for the appliance industry. The Project is to be located in Greenville County, South Carolina.

(b) The Borrower has demonstrated to the Authority that the assistance of the Authority by the issuance of its economic development revenue bonds or notes will result in the creation or maintenance of employment for those engaged in construction of the Project, by providing full-time employment for approximately 30 people within 12 months and an additional 20 people within 24 months when the Project is placed in full operation, with a resulting alleviation of unemployment and a substantial increase in payrolls and other public benefits incident to the conduct of such businesses not otherwise provided locally, and the number of jobs resulting from the assistance authorized herein bears a reasonable relationship to the principal amount of the Bonds (as described below).

(c) The principal amount of the Bonds bears a reasonable relationship to the amount of private funds committed to the Project.

(d) The size and scope of the Project is such that a definite benefit to the economy of the State of South Carolina, and Greenville County in particular, is reasonably expected to result therefrom.

Section 2. Subject to such approval by the State Budget and Control Board and the governing board of Greenville County, South Carolina, as required by law, the Board of Directors of the Authority preliminarily approves the issuance and sale of economic development revenue bonds or notes of the Authority pursuant to Section 41-43-110 of the Act in a principal amount of not exceeding \$9,000,000 (the "Bonds") for the purpose of providing financing to the Borrower for the acquisition and construction of the Project.

JAN 10 1995

Section 3. The issuance and sale of the Bonds shall be upon such terms and conditions as may be mutually agreed upon by the Authority, the Borrower, and the purchaser of the Bonds, and shall be subject to completion of proceedings for issuance, sale, and delivery of the Bonds satisfactory to the Authority. The provisions, terms, and conditions of the agreements to be entered into in connection with the issuance of the Bonds by the Authority, and the form, details, rate or rates of interest, maturity, and redemption provisions, if any, of the Bonds, other details of any loan agreement relating to the Bonds, and findings required by the Act shall be prescribed by subsequent resolution of the Authority and shall be reasonable and proper, taking into account such factors as the type of program involved, the principal amount of the Bonds, and the number and type of program involved, the principal amount of the Bonds, and the number and type of jobs involved; the public interest shall be adequately protected by the terms thereof.

Section 4. The Chairman of the Board of Directors of the Authority is hereby authorized and directed to execute the Inducement Agreement attached hereto in the name and on behalf of the Authority, and the Executive Director of the Authority is hereby authorized and directed to affix thereto the seal of the Authority and to attest the same, and the Executive Director of the Authority is hereby further authorized and directed to deliver said executed Inducement Agreement to the Borrower.

Section 5. It is the intention of the Authority that this resolution shall constitute an official action on the part of the Authority within the meaning of the applicable regulations of the Treasury Department relating to the issuance of tax-exempt revenue bonds.

Section 6. The Bonds shall never constitute an indebtedness of the Authority or the State of South Carolina (the "State") within the meaning of any state constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the Authority or the State or a charge against the general credit of the Authority or the State or the taxing powers of the State.

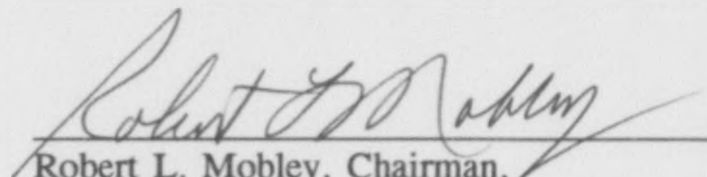
Section 7. Upon receipt by the Authority from the Borrower of evidence, which shall be satisfactory to the Authority, of the economic feasibility of the Project, there shall be and is hereby authorized and directed the submission on behalf of the Authority, of a Petition requesting approval by the State Budget and Control Board of South Carolina pursuant to the provisions of Section 41-43-110 of the Act of the issuance of the Bonds through public or private sale, said Petition, which constitutes and is hereby made a part of this authorizing resolution, to be in form acceptable to the State Budget and Control Board.

Section 8. The Chairman of the Board of Directors of the Authority shall be and is hereby authorized and directed to execute said Petition in the name and on behalf of the Authority, and the Executive Director of the Authority shall be and is hereby authorized and directed to affix the seal of the Authority to said Petition and to attest the same and thereafter, upon the conditions set forth hereinabove, to submit an executed copy of this resolution to the State Budget and Control Board of South Carolina.

Section 9. All orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed, and this resolution shall take effect and be in full force from and after its passage and approval.

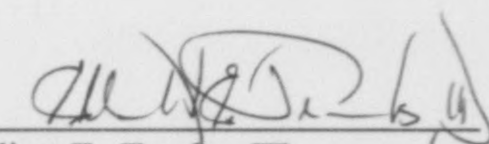
Passed and approved October 26, 1994.

SOUTH CAROLINA JOBS-ECONOMIC
DEVELOPMENT AUTHORITY


Robert L. Mobley, Chairman,
Board of Directors

(SEAL)

ATTEST:


Elliott E. Franks, III,
Executive Director

EXHIBIT

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

[Form of Opinion of Bond Counsel]

_____, 1995

South Carolina Jobs-Economic
Development Authority
Columbia, South Carolina

Re: \$9,000,000 South Carolina Jobs-Economic Development Authority, Economic
Development Revenue Bonds (EuroKera North America Inc. Project) Series
1995

Gentlemen:

We have served as Bond Counsel in connection with the issuance by the South Carolina Jobs-Economic Development Authority (the "Issuer") of its \$9,000,000 Economic Development Revenue Bonds (EuroKera North America Inc. Project) Series 1995 (the "Bonds"). The Bonds have been issued pursuant to the terms of an Indenture of Trust dated as of March 1, 1995 (the "Indenture"), between the Issuer and _____, as trustee (the "Trustee"). The proceeds of the Bonds will be used to defray the cost of a certain project pursuant to a Loan Agreement dated as of March 1, 1995 (the "Loan Agreement"), by and between the Issuer and EuroKera North America Inc. (the "Borrower"). Pursuant to the Loan Agreement, the Borrower is obligated to make payments to or on behalf of the Issuer sufficient to pay the principal and purchase price of, premium, if any, and interest on the Bonds. Unless otherwise indicated, all capitalized terms as used in this opinion shall have the meanings set forth in Article I of the Indenture.

In connection with our opinion, we have examined the Constitution and laws of the State, particularly Title 41, Chapter 43, Code of Laws of South Carolina, 1976, as amended (the "Act"), the transcript of the proceedings with respect to the Bonds, certified copies of documents relating to the organization of the Issuer, and certified copies of proceedings and other papers relating to the issuance and sale by the Issuer of the Bonds, including the resolution adopted by the Issuer on _____, 1995, authorizing the issuance of the Bonds.

The Bonds will be issued as fully registered bonds and will bear a dated date of March ____, 1995. The Bonds are payable by the Issuer solely from the funds provided pursuant to the Indenture. Under the terms of the Indenture and the Loan Agreement, the Borrower will provide initially a

GRVL:29868

003993

EXHIBIT

JAN 10 1995

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South Carolina Jobs-Economic
Development Authority
March __, 1995
Page 2

STATE BUDGET & CONTROL BOARD

Letter of Credit to secure payment of the principal and purchase price of and interest on the Bonds, issued on behalf of the Borrower. _____ (the "Bank"), has, subject to the termination dates specified therein, issued its irrevocable direct-pay Letter of Credit with respect to the Bonds. The Borrower has also granted to the Bank a security interest in certain real and personal property pursuant to a Mortgage and Security Agreement dated as of March 1, 1995 (the "Mortgage"), made by the Borrower, as Mortgagor, to the Bank, as Mortgagee. We refer you to the Bonds, the Loan Agreement, and the Indenture for a further description of the Bonds, the purposes for which the Bonds are issued and the security therefor.

Reference is made to an opinion of even date of _____, counsel to the Borrower, with respect, among other matters, to the power of the Borrower to enter into and perform the Loan Agreement and the authorization, execution and delivery of the Loan Agreement by the Borrower and with respect to the Loan Agreement being binding and enforceable upon the Borrower.

With respect to the due authorization, execution and delivery of the Letter of Credit by the Bank, the validity thereof and enforceability thereof against the Bank, we refer you to the opinion of _____ of even date herewith addressed to you.

As to questions of fact material to our opinion, we have relied upon representations of and compliance with covenants by the Borrower and the Issuer contained in the Loan Agreement, the Indenture, certificates of public officials furnished to us, and certificates of representatives of the Borrower, the Trustee, the Issuer, the Bank, and other parties, including, without limitation, representations, covenants and certifications as to certain prior tax-exempt bond issues, the use of the proceeds of the Bonds, certain capital expenditures of the Borrower and others, compliance with the arbitrage reporting and rebate requirements, the average reasonably expected economic life of the property being financed with the proceeds of the Bonds, and other factual matters which are relevant to the opinion expressed in paragraph 7, in each case without undertaking any independent verification. We have assumed that all signatures on documents, certificates and instruments examined by us are genuine, all documents, certificates and instruments submitted to us as originals are authentic and all documents, certificates and instruments submitted to us as copies conform to the originals. In addition, we have assumed that all documents, certificates and instruments relating to this financing have been duly authorized, executed and delivered by all parties thereto other than the Issuer, and we have further assumed the due organization, existence and powers of such other parties other than the Issuer and the Borrower.

GRVL:29868

003994

Based upon the foregoing, we are of the opinion that, under existing law:

1. The Issuer is a validly existing public body corporate and politic and an agency of the State of South Carolina, duly created by the Act, and is vested with the rights and powers conferred by the Act.
2. The Issuer has all requisite authority and power under the Act, particularly Section 41-43-110 thereof, to issue the Bonds and to enter into and perform its obligations under the Indenture and the Loan Agreement and to apply the proceeds from the issuance of the Bonds as contemplated by the Loan Agreement.
3. The Bonds have been duly authorized and issued in accordance with the Act and the Indenture and, subject to paragraph 6 below, constitute valid, binding and enforceable limited obligations of the Issuer, payable by the Issuer solely from the revenues and receipts pledged to such purpose under the Indenture and from amounts drawn under the Letter of Credit. The Bonds do not create or constitute a pledge of the faith and credit or the taxing power of the Issuer or the State. Neither the Issuer nor the State is obligated to make any payment with respect to the Bonds except from the special funds provided therefor and the property pledged thereto under the Indenture.
4. The Indenture and the Loan Agreement have been duly authorized, executed and delivered by the Issuer, and, subject to paragraph 6 below, constitute valid and binding agreements of the Issuer enforceable against the Issuer in accordance with their respective terms.
5. The Issuer's right, title and interest in the Loan Agreement (except the Issuer's right to indemnity, notices and payment of its expenses) have been assigned to the Trustee, and, subject to paragraph 6 below, such assignment constitutes a valid and binding assignment of the Issuer, enforceable against the Issuer in accordance with its terms.
6. It is to be understood that the rights of the Bondholders and the obligations of the parties under the Bonds, the Indenture and the Loan Agreement are subject to the exercise of judicial discretion in accordance with general principles of equity, and to the provisions of applicable bankruptcy, insolvency, reorganization, moratorium and similar laws, now or hereafter in effect, relating to or affecting the enforcement of creditors' rights. Certain indemnity provisions may be unenforceable pursuant to court decisions invalidating such indemnity agreements on grounds of public policy.

EXHIBIT

JAN 10 1995

4

South Carolina Jobs-Economic
Development Authority

March __, 1995

Page 4

STATE BUDGET & CONTROL BOARD

7. Under existing law, the interest on the Bonds is excludable from gross income for federal income tax purposes, except that under Section 147(a) of the Internal Revenue Code of 1986, as amended (the "Code"), such federal exclusion from gross income shall not apply with respect to any particular Bond for any period during which held by a "substantial user" of the Project or a "related person" within the meaning of such Section. Also, such exclusion from gross income of interest for federal income tax purposes may become inapplicable with respect to all or part of the Bonds, in certain cases retroactive to the date of issuance, (i) in the event of the occurrence of certain contingencies relating to prior issues and capital expenditures by the Borrower or any principal user of the Project or any persons related to the Borrower or any principal user of the Project provided for in Section 144(a) of the Code, or (ii) in the event the Borrower or the Issuer fails to comply with certain covenants in the Indenture and Loan Agreement with respect to maintenance of the exclusion from gross income for federal income tax purposes for the interest on the Bonds, including use, investment and expenditure of Bond proceeds and use of the facilities financed with Bond proceeds. Interest on the Bonds must be included as an item of tax preference in the computation of the alternative minimum tax on corporations and on individuals imposed by Section 55 of the Code. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

Ownership of the Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits and taxpayers who may be deemed to have incurred (or continued) indebtedness to purchase or carry tax-exempt obligations.

7. Under present law, interest on the Bonds is exempt from all income taxation by the State, except estate and certain transfer fees. Certain taxes, however, specifically including the tax imposed on banks by Section 12-11-20, Code of Laws of South Carolina, 1976, as amended, are enforced as franchise taxes on some measure of assets or income, which may include the Bonds or income therefrom.

8. The Bonds constitute exempt securities under Section 3(a)(2) of the Securities Act of 1933, as amended to this date (the "Securities Act"), and under Section 3(a) of the Securities Exchange Act of 1934, as amended to this date, and the offer, sale and delivery of the Bonds do not require registration of the Bonds under the Securities Act, nor is qualification of the Indenture required by the Trust Indenture Act of 1939, as amended to this date.

GRVL:29868

003596

South Carolina Jobs-Economic
Development Authority
March __, 1995
Page 5

It is to be understood that the rights of the Bondholders and the obligations of the parties under the Bonds, the Indenture and the Loan Agreement are subject to the exercise of judicial discretion in accordance with general principles of equity, the valid exercise of the constitutional powers of the United States and the police powers of the State and to the provisions of applicable bankruptcy, insolvency, reorganization, moratorium and similar laws, now or hereafter in effect, relating to or affecting the enforcement of creditors' rights. Certain indemnity provisions may be unenforceable pursuant to court decisions invalidating such indemnity agreements on grounds of public policy.

We have been retained solely for the purpose of examining into the validity and legality of the Bonds and of rendering certain specific opinions hereinbefore stated and for no other purpose. We have not verified the accuracy, completeness or fairness of any representations or information concerning the business or financial condition of the Borrower or any other party made, prepared or issued by any party, or on behalf of any party, in connection with the sale of the Bonds. Accordingly, we express no opinion on the completeness, fairness or adequacy of any such representations or information.

Very truly yours,

McNAIR & SANFORD, P.A.

003997

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

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER P. CARTER
EXECUTIVE DIRECTOR

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

December 28, 1994

MEMORANDUM

TO: Alice Broadwater; Wayne Rush
FROM: Donna Kaminer Williams *DKW*
SUBJECT: Review of Revenue Bond Proposal

Enclosed is the following proposal for the issuance of bonds which has been submitted for the Tuesday, January 10, 1995, Budget and Control Board agenda:

Jobs-Economic Development Authority
Not Exceeding \$9,000,000 Economic Development Revenue Bonds
EuroKera North America Inc. project

For this proposal to be included on the January 10 agenda, I must have the written results of your review before 9:30 a.m. on Thursday, January 5, 1995.

DKW/laf
Enclosure

003998

EXHIBIT

STATE OF SOUTH CAROLINA
State Budget and Control Board STATE BUDGET & CONTROL BOARD
OFFICE OF THE EXECUTIVE DIRECTOR

JAN 10 1995

4

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

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995

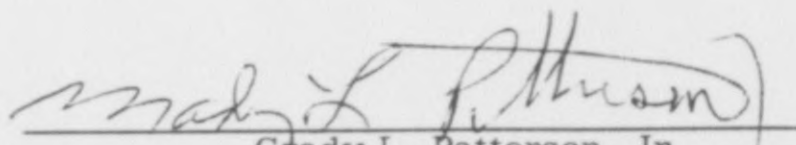
C E R T I F I C A T E
STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS
(UNDER TAX REFORM ACT OF 1986)
TENTATIVE ALLOCATION, CALENDAR YEAR 1995

TO: Jobs-Economic Development Authority
\$9,000,000 Economic Development Revenue Bonds
EuroKera North America Inc. Project

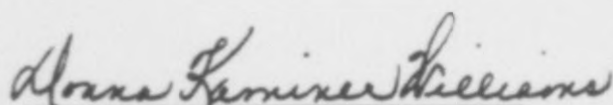
C/O: Ms. Kathleen Crum McKinney
McNair & Sanford, P.A.
Suite 601, NationsBank Plaza
Greenville, SC 29601

In accord with Section 1-11-500 et seq. of the South Carolina Code of Laws, 1976, as amended, the State Budget and Control Board has made a tentative allocation of the State Ceiling established in the Tax Reform Act of 1986 in the amount indicated to the referenced bonds/notes and project. This allocation is valid for calendar year 1995 only. It will expire on **April 10, 1995**, which is ninety (90) consecutive calendar days from the date the allocation was approved by the Board, if the bonds/notes for which the allocation has been approved have not been issued prior to that time.

Before this tentative allocation becomes final, Code Section 1-11-550 requires that the exact amount of the bonds/notes being issued be certified to the Board Secretary by the issuing authority **before** the issue is made. In response to that issue amount certificate, the Secretary will issue a certificate which makes the ceiling allocation final.


Grady L. Patterson, Jr.

Attest:


Donna Kammer Williams
Secretary to the Board

003559

EXHIBIT

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

JAN 10 1995

4

STATE BUDGET & CONTROL BOARD

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

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995

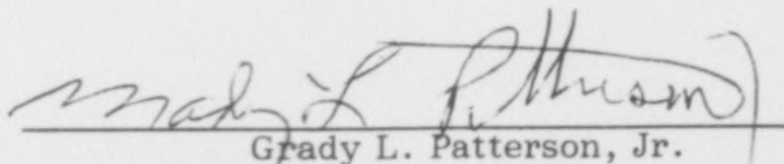
C E R T I F I C A T E
STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS
(UNDER TAX REFORM ACT OF 1986)
TENTATIVE ALLOCATION, CALENDAR YEAR 1995

TO: Jobs-Economic Development Authority
\$9,000,000 Economic Development Revenue Bonds
EuroKera North America Inc. Project

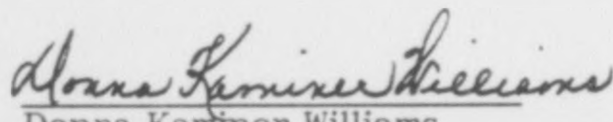
C/O: Ms. Kathleen Crum McKinney
McNair & Sanford, P.A.
Suite 601, NationsBank Plaza
Greenville, SC 29601

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Before this tentative allocation becomes final, Code Section 1-11-550 requires that the exact amount of the bonds/notes being issued be certified to the Board Secretary by the issuing authority **before** the issue is made. In response to that issue amount certificate, the Secretary will issue a certificate which makes the ceiling allocation final.


Grady L. Patterson, Jr.

Attest:


Donna Kammer Williams
Secretary to the Board

004000

EXHIBIT

JAN 10 1995

4

A RESOLUTION APPROVING THE ISSUANCE BY THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY THROUGH PRIVATE SALE OF NOT EXCEEDING \$9,000,000 ECONOMIC DEVELOPMENT REVENUE BONDS (EUROKERA NORTH AMERICA INC. PROJECT), PURSUANT TO THE PROVISIONS OF SECTION 41-43-110 OF SOUTH CAROLINA CODE ANNOTATED, TITLE 41, CHAPTER 43 (1976), AS AMENDED.

WHEREAS, the South Carolina Jobs-Economic Development Authority (the "Authority") has heretofore under and pursuant to the provisions of Section 41-43-110 of South Carolina Code Annotated, Title 41, Chapter 43 (1976), as amended (the "Act"), requested approval by the State Budget and Control Board of the issuance by the Authority pursuant to the Act of its Economic Development Revenue Bonds (EuroKera North America Inc. Project), in the aggregate principal amount of not exceeding \$9,000,000 (the "Bonds"); and

WHEREAS, the Issuer proposes to issue the Bonds for the purpose of defraying the cost of acquiring, by construction and purchase, a building or buildings, other improvements, and certain machinery, apparatus, equipment, office facilities and furnishings (the "Project") to be used for a facility to decorate and ceram glass cooktops for the appliance industry; and

WHEREAS, the Project is to be made available to EuroKera North America Inc. (the "Company") upon terms which require the Company to make payments to or for the account of the Issuer in amounts sufficient to pay the principal and interest on the Bonds; and

NOW, THEREFORE, BE IT RESOLVED, by the State Budget and Control Board of the State of South Carolina, as follows:

Section 1. It is hereby found, determined and declared by the Board that: the Petition filed by the Authority contains all matters required by law and the rules of this Board to be set forth therein, and that in consequence thereof the jurisdiction of this Board has been properly invoked under and pursuant to Section 41-43-110 of the Act.

Section 2. In consequence of the foregoing, the proposal of the Authority to defray the cost of acquiring the Project, to make the Project available to the Company, to finance the cost thereof and expenses incidental thereto by the execution and delivery of the Bonds, secured by an assignment of the revenues to be derived from the Loan Agreement, be and the same is hereby in all respects approved. This approval shall not be affected by any changes in the details of the proposal of the Issuer so long as such changes do not impose a pecuniary liability upon the Issuer or its general credit or taxing power, are approved by the Board of Directors of the Authority and the Company, and do not make inaccurate, except as to dates and amounts, the summaries of the Loan Agreement and the Indenture and the description of the Project.

Section 3. This Resolution shall take effect immediately.

CC4C01

(a)

EXHIBIT

STATE OF SOUTH CAROLINA

JAN 10 1995

4

State Budget and Control Board

OFFICE OF THE EXECUTIVE DIRECTOR

STATE BUDGET & CONTROL BOARD

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

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995

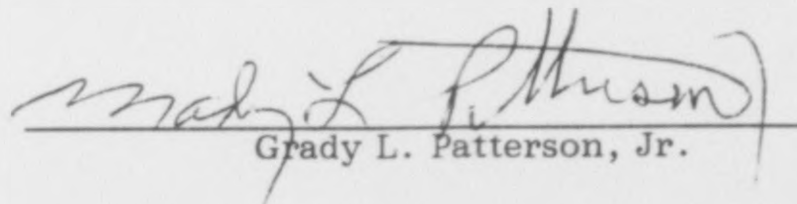
C E R T I F I C A T E STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS (UNDER TAX REFORM ACT OF 1986) TENTATIVE ALLOCATION, CALENDAR YEAR 1995

TO: Jobs-Economic Development Authority
\$9,000,000 Economic Development Revenue Bonds
EuroKera North America Inc. Project

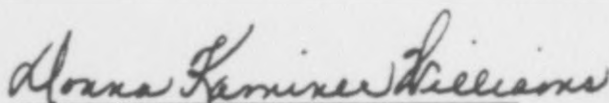
C/O: Ms. Kathleen Crum McKinney
McNair & Sanford, P.A.
Suite 601, NationsBank Plaza
Greenville, SC 29601

In accord with Section 1-11-500 et seq. of the South Carolina Code of Laws, 1976, as amended, the State Budget and Control Board has made a tentative allocation of the State Ceiling established in the Tax Reform Act of 1986 in the amount indicated to the referenced bonds/notes and project. This allocation is valid for calendar year 1995 only. It will expire on **April 10, 1995**, which is ninety (90) consecutive calendar days from the date the allocation was approved by the Board, if the bonds/notes for which the allocation has been approved have not been issued prior to that time.

Before this tentative allocation becomes final, Code Section 1-11-550 requires that the exact amount of the bonds/notes being issued be certified to the Board Secretary by the issuing authority **before** the issue is made. In response to that issue amount certificate, the Secretary will issue a certificate which makes the ceiling allocation final.


Grady L. Patterson, Jr.

Attest:


Donna Kaminer Williams
Secretary to the Board

CC4C02

EXHIBIT

JAN 10 1995

5

TRANSMITTAL FORM, REVENUE BONDS

STATE BUDGET & CONTROL BOARD

TO: Donna Kaminer Williams, Board Secretary
State Budget and Control Board
601 Wade Hampton Building
Columbia, SC 29201

DATE: December 27, 1994

Submitted for BCB Meeting on:
January 10, 1995

OR P.O. Box 12444, Columbia, SC 29211

FROM:

McNAIR & SANFORD, P.A.

RE:

N/E \$2,000,000

Name of Law Firm

Amount of Issue

Suite 601, NationsBank Plaza

S.C. Jobs-Economic Development

Street Address/Box Number

Name of Issuing Authority

Greenville, SC 29601

Economic Development Revenue

City, State, Zip Code

Type of Bonds or Notes

(803) 271-4940

February 1995

Area Code/Telephone Number

Projected Issue Date

Project Name: Herrenknecht Corporation Project

Project Description: manufacture of component parts for tunnelling systems

Employment as a result of the project: approx. 4 within 12 months & 14 within 24 mos.

Ceiling Allocation Required

Refunding Involved

Project Approved Previously

X Yes (\$ 2,000,000) No Yes (\$) X No Yes (\$) X No
Amount Amount Amount

Documents enclosed (executed original and two copies of each):

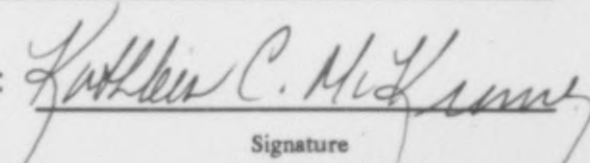
(ALL documents required for state law approval; A and C only for ceiling allocation only.)

- A. ☒ Petition
- B. ☒ Resolution or Ordinance
- C. ☒ Inducement Resolution or comparable preliminary approval
- D. ☐ Department of Health and Environmental Control Certificate *if required*
- E. ☒ Budget and Control Board Resolution and Public Notice (original)
Plus 5 copies for certification and return to bond counsel
- F. ☒ Draft bond counsel opinion letter
- G. ☐ Processing Fee N/A

Amount: \$ _____ Check No: _____

Payor: _____

Bond Counsel: Kathleen Crum McKinney, Esq.

By: 

Typed Name of Bond Counsel

Signature

EXHIBIT

JAN 10 1995

5

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

STATE BUDGET & CONTROL BOARD
Herrenknecht Corporation

I, DONNA KAMINER WILLIAMS, SECRETARY to the South Carolina State Budget and Control Board, DO HEREBY CERTIFY:

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

His Excellency, Carroll A. Campbell, Jr., Governor and Chairman of the Board;

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

The Honorable Earle E. Morris, Jr., Comptroller General;

The Honorable John Drummond, Chairman of the Senate Finance Committee; and

The Honorable Henry E. Brown, Jr., Chairman of the House Ways and Means Committee.

That due notice of a meeting of the Board, called to be held in Columbia, South Carolina, at 9:30 a.m. on Tuesday, January 10, 1995, was given to all members in writing at least four days prior to the meeting and that, in compliance with the Freedom of Information Act, public notice of and the agenda index 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, in the lobby of the Wade Hampton Office Building, and near the Board Secretary's Office on the Sixth Floor of the Wade Hampton Office Building at 4:30 p.m. on Friday, January 6, 1995.

That all members of the Board were present at the meeting.

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

FOR MOTION

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AGAINST MOTION

0

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

January 10, 1995

Donna Kaminer Williams

004004

A RESOLUTION APPROVING THE ISSUANCE BY THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY THROUGH PRIVATE SALE OF NOT EXCEEDING \$2,000,000 ECONOMIC DEVELOPMENT REVENUE BONDS (HERRENKNECHT CORPORATION PROJECT), PURSUANT TO THE PROVISIONS OF SECTION 41-43-110 OF SOUTH CAROLINA CODE ANNOTATED, TITLE 41, CHAPTER 43 (1976), AS AMENDED.

WHEREAS, the South Carolina Jobs-Economic Development Authority (the "Authority") has heretofore under and pursuant to the provisions of Section 41-43-110 of South Carolina Code Annotated, Title 41, Chapter 43 (1976), as amended (the "Act"), requested approval by the State Budget and Control Board of the issuance by the Authority pursuant to the Act of its Economic Development Revenue Bonds (Herrenknecht Corporation Project), in the aggregate principal amount of not exceeding \$2,000,000 (the "Bonds"); and

WHEREAS, the Issuer proposes to issue the Bonds for the purpose of defraying the cost of acquiring, by construction and purchase, a building or buildings, other improvements, and certain machinery, apparatus, equipment, office facilities and furnishings (the "Project") to be used for the purpose of manufacturing component parts for tunnelling systems; and

WHEREAS, the Project is to be made available to Herrenknecht Corporation (the "Company") upon terms which require the Company to make payments to or for the account of the Issuer in amounts sufficient to pay the principal and interest on the Bonds; and

NOW, THEREFORE, BE IT RESOLVED, by the State Budget and Control Board of the State of South Carolina, as follows:

Section 1. It is hereby found, determined and declared by the Board that: the Petition filed by the Authority contains all matters required by law and the rules of this Board to be set forth therein, and that in consequence thereof the jurisdiction of this Board has been properly invoked under and pursuant to Section 41-43-110 of the Act.

Section 2. In consequence of the foregoing, the proposal of the Authority to defray the cost of acquiring the Project, to make the Project available to the Company, to finance the cost thereof and expenses incidental thereto by the execution and delivery of the Bonds, secured by an assignment of the revenues to be derived from the Loan Agreement, be and the same is hereby in all respects approved. This approval shall not be affected by any changes in the details of the proposal of the Issuer so long as such changes do not impose a pecuniary liability upon the Issuer or its general credit or taxing power, are approved by the Board of Directors of the Authority and the Company, and do not make inaccurate, except as to dates and amounts, the summaries of the Loan Agreement and the Indenture and the description of the Project.

Section 3. This Resolution shall take effect immediately.

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3680
FACSIMILE: 803-253-6283

January 4, 1995

EXHIBIT

JAN 10 1995

5

STATE BUDGET & CONTROL BOARD

Donna Williams
Secretary to the Board
State Budget and Control Board
612 Wade Hampton Office Building
Post Office Box 12444
Columbia, South Carolina 2921

Re: Jobs-Economic Development Authority
Not Exceeding \$2,000,000 Economic Development Revenue Bonds
Herrenknecht Corporation project

Dear Ms. Williams:

This Office has received the letter you have forwarded to us regarding the Herrenknecht Corporation project.

Please be advised that to the knowledge of this Office there is no known litigation of any nature, now pending or threatened, that would restrain or enjoin the issuance and delivery of the Bonds, nor in any manner question the proceedings and authority under which the same is made or affect the validity of the Bonds thereunder.

No opinion is expressed as to any matters other than as set forth herein. Specifically no opinion is expressed as to any business judgment decisions in relation to this transaction.

Office of the Attorney General

By: Alvin C. Broadwater

ACB/fg

004006

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



CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

1201 MAIN STREET, SUITE 420
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-3880
(803) 737-0592 Fax

HELEN T. ZEIGLER
DIRECTOR

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

January 5, 1995

The Honorable Donna K. Williams
Secretary
S. C. Budget and Control Board
601 Wade Hampton Office Building
Columbia, South Carolina 29201

RE: Jobs-Economic Development Authority
Not Exceeding \$2,000,000 Economic Development Revenue Bonds
Herrenknecht Corporation Project

Dear Mrs. Williams:

We have received the Revenue Bonds Transmittal Form and other items regarding the referenced proposed bonds.

These documents have been submitted by Bond Counsel, McNair and Sanford, P.A. and upon review of the Petition to the Budget and Control Board, the proposed Resolution of the Budget and Control Board and the draft of the Opinion of Bond Counsel appear to be in good order. Of course, we express no opinion as to the merits of the bond issue or the validity of the information recited in these documents as we have not acted in a capacity which would enable us to have knowledge adequate to form such an opinion. We have merely reviewed the documents form and they appear to meet the conditions imposed by State law that certain matters be addressed in the documentation.

Sincerely,

A handwritten signature in cursive script that reads "Wayne F. Rush".

Wayne F. Rush
General Counsel

004007

EXHIBIT

JAN 10 1995

5

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

STATE BUDGET & CONTROL BOARD

TO THE STATE BUDGET AND CONTROL)
BOARD OF SOUTH CAROLINA)
PETITION OF SOUTH
CAROLINA JOBS-ECONOMIC
DEVELOPMENT AUTHORITY

This Petition of the South Carolina Jobs-Economic Development Authority (the "Authority"), pursuant to South Carolina Code Annotated, Title 41, Chapter 43 (1976), as amended (the "Act"), and specifically Section 41-43-110 thereof, respectfully shows:

1. The Act, among other things, empowers the Authority: (i) to acquire and, in connection with such acquisition, to enlarge, improve and expand, whether by construction, purchase, gift or lease, one or more business enterprises (as referred to in Section 41-43-160 of the Act) which shall be located within the jurisdiction of the State of South Carolina; (ii) to make available to any business enterprise located in South Carolina such projects for such payments and upon such terms and conditions as the Authority may deem advisable and as shall not conflict with the provisions of the Act; and (iii) subject to the approval of the State Budget and Control Board of the issuance of its bonds through public or private sale pursuant to Section 41-43-110 of the Act, to issue revenue bonds, as defined in the Act to include notes, for the purpose of defraying the cost of acquiring, by construction and purchase, and in connection with any such acquisition, to enlarge, improve and expand any project and to secure the payment of such bonds, all as in the Act provided.

2. The Authority has agreed to assist Herrenknecht Corporation, a Georgia corporation (the "Borrower"), by issuing its revenue bonds for the purpose of financing the acquisition and construction of certain facilities for the manufacture of component parts for microtunnelling systems, constituting an industrial facility (the "Project") located in Spartanburg County, South Carolina.

3. The undersigned Executive Director of the Authority certifies that approval of this Project was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

4. The Authority has been advised by the Borrower that the estimated cost of financing the Project will be not exceeding \$2,000,000, and the Borrower has requested the Authority to execute and deliver its Economic Development Revenue Bonds (Herrenknecht Corporation Project) (the "Bonds") in the aggregate principal amount of not exceeding \$2,000,000.

004008

5. The Bonds will be placed by a financial institution acceptable to the Authority through a private placement, which arrangement the Authority has determined to be most advantageous.

6. Pursuant to Section 41-43-150 of the Act, the Authority has made the requisite findings that:

(a) The Borrower is engaged in the business of manufacturing component parts for microtunnelling systems and the Project is located in Spartanburg County, South Carolina.

(b) The Project constitutes a "business enterprise" as said term is referred to in Section 41-43-160 of the Act, and the issuance of the Bonds in the aggregate principal amount of not exceeding \$2,000,000 to finance the Project will subserve the purposes and in all respects conform to the provisions and requirements of the Act.

(c) It is anticipated that the Project will benefit the general public welfare of the State of South Carolina, and Spartanburg County in particular, by providing employment for approximately 4 people within 12 months and an additional 14 people within 24 months from Spartanburg County and adjacent areas, with a resulting alleviation of unemployment and a substantial increase in payrolls and other public benefits incident to the conduct of such businesses not otherwise provided locally, and the number of jobs resulting from the assistance authorized herein bears a reasonable relationship to the principal amount of the Bonds.

(d) The size and scope of the Project is such that a definite benefit to the economy of the State of South Carolina, and Spartanburg County in particular, is reasonably expected to result therefrom.

Prior to issuance of the Bonds, the Authority will, as part of its proceedings:

(a) Require a resolution from the governing body of Spartanburg County containing the following findings: (1) that the Project will subserve the purposes of the Act; (2) that the Project is anticipated to benefit the general public welfare of Spartanburg County by providing services, employment, or other public benefits not otherwise provided locally; (3) that the Project will give rise to no pecuniary liability of Spartanburg County or a charge against its general credit or taxing power; and (4) the amount of bonds required to finance the Project;

(b) Hold a public hearing in Spartanburg County in connection with such resolution;

(c) Make findings that the terms of the agreements to be entered into in connection with the Project are reasonable and proper as to the adequacy of protection for the public interest provided by such terms;

(d) Negotiate the terms of such agreements to the extent necessary to conclude that neither the Project, the Bonds proposed to be issued by the Authority to defray the cost of financing the Project, nor any documents or agreements entered into by the Authority in connection therewith will constitute or give rise to a pecuniary liability of the Authority or the State of South Carolina or a charge against the general credit or taxing power of either, and only program funds (as defined in the Act) will be made available to finance the cost of the Project;

(e) Undertake such investigation as is necessary to conclude that the Borrower is a corporation with established credit and is a responsible party; and

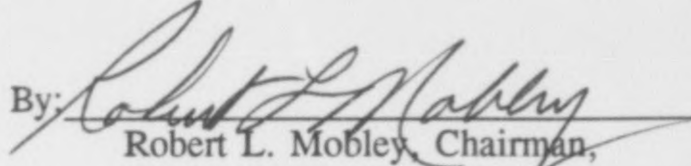
(f) Undertake such investigation as is necessary to conclude that the issuance of the Bonds by the Authority in the final principal amount requested by the Borrower will be required to defray the cost of financing the Project, and such principal amount bears a reasonable relationship to the amount of private funds also committed to the Project.

Upon the basis of the foregoing, the Authority respectfully prays that the State Budget and Control Board (i) accept the filing of this Petition and the documents submitted herewith, (ii) make such investigation as it deems advisable, (iii) approve the issuance of the Bonds by the Authority through private sale pursuant to the Act to defray the cost of financing the Project (including changes in any details of the said financing as finally consummated which do not materially affect the undertaking of the Authority), and (iv) allocate to the Bonds such portion of the state ceiling for 1995 as established by the Tax Reform Act of 1986 and the Internal Revenue Code of 1986, as amended, as is necessary for the issuance of the Bonds.

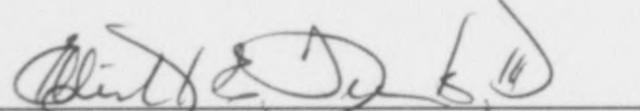
Respectfully submitted,

SOUTH CAROLINA JOBS-ECONOMIC
DEVELOPMENT AUTHORITY

By:


Robert L. Mobley, Chairman,
Board of Directors

ATTEST:


Elliott E. Franks, III,
Executive Director

Dated: December 20, 1994.

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INDUCEMENT AGREEMENT

STATE BUDGET & CONTROL BOARD

THIS AGREEMENT made and entered into by and between the SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY, a public body corporate and politic and an agency of the State of South Carolina (the "Authority"), and HERRENKNECHT CORPORATION, a Georgia corporation (the "Borrower").

WITNESSETH:

ARTICLE I

RECITATION OF FACTS

As a means of setting forth the matters of mutual inducement which have resulted in the making and entering into of this Agreement, the following statements of fact are herewith recited:

Section 1.01. The Authority, acting by and through its Board of Directors, is authorized and empowered under and pursuant to the provisions of Title 41, Chapter 43 of the Code of Laws of South Carolina 1976, as amended (the "Act"), to utilize any of its program funds to establish loan programs for the purpose of reducing the cost of capital to business enterprises which meet the eligibility requirements of Section 41-43-150 of the Act and for other purposes described in Section 41-43-160 of the Act and thus provide maximum opportunities for the creation and retention of jobs and improvement of the standard of living of the citizens of the State of South Carolina and in the promotion and advancement of industrial, commercial, agricultural, and recreational development in the State of South Carolina.

Section 1.02. The Authority is further authorized by Section 41-43-110 of the Act to issue revenue bonds, as defined in the Act to include notes, payable by the Authority solely from a revenue producing source and secured by a pledge of said revenues in order to provide funds for any program authorized by the Act.

Section 1.03. The Borrower has applied to the Authority to issue approximately \$2,000,000 of its economic development revenue bonds or notes in order to defray the cost of acquiring by construction or purchase a building or buildings, other improvements, and machinery, apparatus, equipment, office facilities, and furnishings to be installed therein for the manufacture of component parts for microtunnelling systems (the "Project") to be located in Spartanburg County, South Carolina, and the Authority wishes to induce the Borrower to acquire and construct the Project within the State of South Carolina.

Section 1.04. (a) The Borrower is a responsible party engaged in the manufacture of component parts for microtunnelling systems. The Project is located in Spartanburg County, South Carolina.

(b) The Borrower has demonstrated to the Authority that the assistance of the Authority by the issuance of its economic development revenue bonds or notes will result in the creation or maintenance of employment for those engaged in construction of the Project, by providing full-time employment for approximately 4 people within 12 months and an additional 14 people within 24 months from Spartanburg County and adjacent areas when the Project is placed in full operation, with a resulting alleviation of unemployment and a substantial increase in payrolls and other public benefits incident to the conduct of such businesses not otherwise provided locally, and the number of jobs resulting from the assistance authorized herein bears a reasonable relationship to the principal amount of the Bonds (as described below).

(c) The principal amount of the Bonds bears a reasonable relationship to the amount of private funds committed to the Project.

(d) The size and scope of the Project is such that a definite benefit to the economy of the State of South Carolina, and Spartanburg County in particular, is reasonably expected to result therefrom.

Section 1.05. The Authority has given due consideration to all the proposals and requests of the Borrower and has agreed to endeavor to effect the issuance of the bonds or notes at the time and on the terms and conditions hereafter set forth.

ARTICLE II

UNDERTAKING ON THE PART OF THE AUTHORITY

The Authority agrees as follows:

Section 2.01. The Authority will, subject to such approval by the State Budget and Control Board and the governing body of Spartanburg County, South Carolina, as may be required by law and subject to the limitations set forth herein, authorize the issuance of not exceeding \$2,000,000 Economic Development Revenue Bonds (or Notes) (Herrenknecht Corporation Project) (the "Bonds"), at such time as the Borrower may request the Authority to do so.

Section 2.01. The Authority will permit the Borrower to arrange for the sale of the Bonds to defray certain costs of the Project as aforesaid and if successful marketing arrangements can be made, it will adopt such proceedings and enter into such agreements as are necessary for the issuance and securing of the Bonds.

Section 2.03. The proceeds of any sale of the Bonds may be applied to the payment of the costs of the Project as determined under the Act including, without limitations, the expenses

incurred in connection with the issuance and sale of the Bonds, the acquisitions of the Project including buildings, necessary machinery and equipment, and other items permitted by the Act, and the repayment of any funds, advances, or loans incurred by the Borrower for such purposes.

Section 2.04. Prior to issuing the Bonds, the Authority may enter into a loan agreement with the Borrower and a security agreement with the trustee (to be requested by the Borrower and approved by the Authority and the State Treasurer) or with the purchasers of the Bond, pursuant to which the Bonds will be secured and issued. Such documents shall be substantially in the form used in connection with the issuance of other South Carolina industrial development revenue bonds and shall constitute a lien on the revenues derived from the Borrower with respect to the Project to secure the payment of the Bonds. Provisions, terms, and conditions of the agreements to be entered into in connection with the issuance of the Bonds by the Authority, and the form, details, rate or rates of interest, maturity, redemption provisions, if any, of the Bonds, and other details of any loan agreement relating to the Bonds, shall be prescribed by subsequent resolution of the Authority and shall be reasonable and proper, taking into account such facts as type of program involved, the principal amount of the bonds, and the number and type of jobs involved; the public interest shall be adequately protected by the terms thereof.

Section 2.05. The Authority will perform such other acts and adopt such further proceedings as may be required faithfully to implement its undertaking and to consummate the proposed financing.

Section 2.06. The undertakings of the Authority hereunder are contingent upon the Authority continuing to evaluate the Project as beneficial to the public interest after considering all additional circumstances of which the Authority may hereafter become aware and upon the Borrower providing the Authority with such further evidence as may be satisfactory to the Authority as to compliance with all applicable statutes and regulations.

ARTICLE III

UNDERTAKINGS ON THE PART OF THE BORROWER

Section 3.01. The Borrower agrees that the Authority will have no obligation to find a purchaser of the Bonds and acknowledges that the Authority's approval of this Agreement is preliminary and is conditioned upon the Authority continuing to evaluate the Project as beneficial to the public interest after considering all additional circumstances of which the Authority may hereafter become aware.

Section 3.02. The Borrower further agrees, if the plan proceeds as contemplated, as follows:

- (a) to acquire the Project;

(b) to enter into a loan agreement with the Authority, under the terms of which the Borrower will obligate itself to pay to the Authority sums sufficient to pay the principal, interest and premium, if any, on the Bonds, as and when the same become due and payable;

(c) to hold the Authority harmless from all pecuniary liability and to reimburse it for all expenses to which it might be put in the fulfillment of its obligations under this Agreement;

(d) to perform such further acts and adopt such further proceedings as may be required faithfully to implement its undertakings and to consummate the proposed financing; and

(e) to covenant and agree in the loan agreement referred to above to install in the buildings which are to become a part of the Project all necessary equipment and machinery and initially to operate the Project in the manner described in Section 1.03 hereof.

ARTICLE IV

GENERAL PROVISION

Section 4.01. All commitments of the Authority under Article II hereof are subject to all of the provisions of the Act and regulations of the Authority pursuant thereto and the conditions that nothing contained in this Agreement shall constitute nor give rise to a pecuniary liability of the Authority or a charge against its general credit.

Section 4.02. The parties hereto agree that the Borrower may proceed with the Project including the acquisition of land, the construction of a building or buildings, and the acquisition and installation of the equipment and machinery, prior to the issuance of Bonds.

Section 4.03. All commitments of the Authority and the Borrower hereunder are subject to the condition that the Authority and the Borrower do agree on mutually acceptable terms and conditions of all documents, the execution and delivery of which are contemplated by the provisions hereof.

Section 4.04. The parties understand that the Borrower or the Authority may choose not to finance the Project as herein provided, in which event this Agreement shall become void.

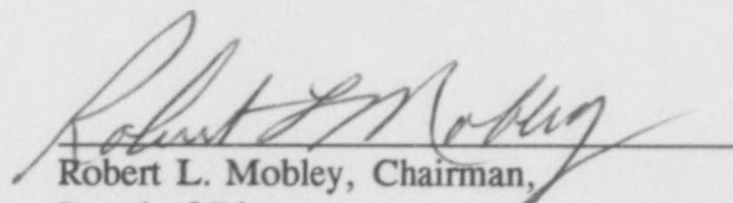
Section 4.05. This Agreement may be assigned by the Borrower to any of its corporate affiliates, any subsidiary corporation organized under the laws of any state of the United States to be formed, any partner or shareholder in the Borrower, or to any company in which the Borrower or one or more of its partners or shareholders has an interest (any of the foregoing being referred to hereinafter as a "Related Company"), or any person or company which is willing to lease the Project to the Borrower or any Related Company.

Section 4.06. It is the intention of the parties hereto that this Agreement shall constitute official intent on the part of the Authority within the meaning of the applicable regulations of the Treasury Department relating to the issuance of tax-exempt bonds.

Section 4.07. The Borrower reserves the right to issue taxable bonds under the authority of this Agreement.

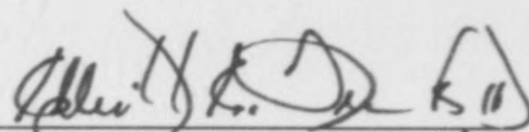
IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Agreement on the respective dates indicated below.

SOUTH CAROLINA JOBS-ECONOMIC
DEVELOPMENT AUTHORITY


Robert L. Mobley, Chairman,
Board of Directors

(SEAL)

ATTEST:


Elliott E. Franks, III,
Executive Director

Dated: December 14, 1994

EXHIBIT

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HERRENKNECHT CORPORATION STATE PROSECUTOR CONTROL BOARD

By: S/

Its: _____

(SEAL)

Dated: December 14, 1994

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NON - ADON

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT BY AND BETWEEN THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY AND HERRENKNECHT CORPORATION, WHEREBY UNDER CERTAIN CONDITIONS THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY WILL ISSUE APPROXIMATELY \$2,000,000 OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS OR NOTES PURSUANT TO THE PROVISIONS OF TITLE 41, CHAPTER 43, OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, AND AUTHORIZING THE APPLICATION UPON CERTAIN CONDITIONS TO THE STATE BUDGET AND CONTROL BOARD OF SOUTH CAROLINA FOR APPROVAL OF THE ISSUANCE OF SUCH BONDS.

WHEREAS, the South Carolina Jobs-Economic Development Authority (the "Authority"), acting by and through its Board of Directors is authorized and empowered under and pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as amended (the "Act"), to utilize any of its program funds to establish loan programs for the purpose of reducing the cost of capital to business enterprises which meet the eligibility requirements of Section 41-43-150 of the Act and for other purposes described in Section 41-43-160 of the Act and thus provide maximum opportunities for the creation and retention of jobs and improvement of the standard of living of the citizens of the State of South Carolina and in the promotion and advancement of industrial, commercial, agricultural, and recreational development in the State of South Carolina; and

WHEREAS, the Authority is further authorized by Section 41-43-110 of the Act to issue revenue bonds, as defined in the Act to include notes, payable by the Authority solely from a revenue producing source and secured by a pledge of said revenues in order to provide funds for any program authorized by the Act; and

WHEREAS, Herrenknecht Corporation, a Georgia corporation (the "Borrower"), has applied to the Authority to issue approximately \$2,000,000 of its economic development revenue bonds or notes in order to defray the cost of acquiring by construction or purchase a building or buildings, other improvements, and machinery, apparatus, equipment, office facilities and furnishings to be installed therein to manufacture component parts for microtunnelling systems, constituting an industrial facility (the "Project") to be located in Spartanburg County, South Carolina, and the Authority wishes to induce the Borrower to acquire and construct the Project within the State of South Carolina; and

WHEREAS, it is in the public interest, for the public benefit and in furtherance of the public purposes of the Authority that its Board of Directors provide preliminary approval of the issuance of economic development revenue bonds for the aforesaid purposes; and

WHEREAS, it is deemed advisable by the Authority to file with the State Budget and Control Board of South Carolina, in compliance with Section 41-43-110 of the Act, the Petition of the Authority requesting approval by the State Budget and Control Board for the issuance of the notes or bonds at public or private sale upon receipt by the Authority from the Borrower of evidence satisfactory to the Authority of the economic feasibility of the Project;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

Section 1. It is hereby found, determined, and declared as follows:

(a) The Borrower is a responsible party engaged in the manufacture of component parts for microtunnelling systems. The Project is to be located in Spartanburg County, South Carolina.

(b) The Borrower has demonstrated to the Authority that the assistance of the Authority by the issuance of its economic development revenue bonds or notes will result in the creation or maintenance of employment for those engaged in construction of the Project, by providing full-time employment for approximately 4 people within 12 months and an additional 14 people within 24 months when the Project is placed in full operation, with a resulting alleviation of unemployment and a substantial increase in payrolls and other public benefits incident to the conduct of such businesses not otherwise provided locally, and the number of jobs resulting from the assistance authorized herein bears a reasonable relationship to the principal amount of the Bonds (as described below).

(c) The principal amount of the Bonds bears a reasonable relationship to the amount of private funds committed to the Project.

(d) The size and scope of the Project is such that a definite benefit to the economy of the State of South Carolina, and Spartanburg County in particular, is reasonably expected to result therefrom.

Section 2. Subject to such approval by the State Budget and Control Board and the governing board of Spartanburg County, South Carolina, as required by law, the Board of Directors of the Authority preliminarily approves the issuance and sale of economic development revenue bonds or notes of the Authority pursuant to Section 41-43-110 of the Act in a principal amount of not exceeding \$2,000,000 (the "Bonds") for the purpose of providing financing to the Borrower for the acquisition and construction of the Project.

JAN 10 1995

STATE BUDGET & CONTROL BOARD

Section 3. The issuance and sale of the Bonds shall be upon such terms and conditions as may be mutually agreed upon by the Authority, the Borrower, and the purchaser of the Bonds, and shall be subject to completion of proceedings for issuance, sale, and delivery of the Bonds satisfactory to the Authority. The provisions, terms, and conditions of the agreements to be entered into in connection with the issuance of the Bonds by the Authority, and the form, details, rate or rates of interest, maturity, and redemption provisions, if any, of the Bonds, other details of any loan agreement relating to the Bonds, and findings required by the Act shall be prescribed by subsequent resolution of the Authority and shall be reasonable and proper, taking into account such factors as the type of program involved, the principal amount of the Bonds, and the number and type of program involved, the principal amount of the Bonds, and the number and type of jobs involved; the public interest shall be adequately protected by the terms thereof.

Section 4. The Chairman of the Board of Directors of the Authority is hereby authorized and directed to execute the Inducement Agreement attached hereto in the name and on behalf of the Authority, and the Executive Director of the Authority is hereby authorized and directed to affix thereto the seal of the Authority and to attest the same, and the Executive Director of the Authority is hereby further authorized and directed to deliver said executed Inducement Agreement to the Borrower.

Section 5. It is the intention of the Authority that this resolution shall constitute an official action on the part of the Authority within the meaning of the applicable regulations of the Treasury Department relating to the issuance of tax-exempt revenue bonds.

Section 6. The Bonds shall never constitute an indebtedness of the Authority or the State of South Carolina (the "State") within the meaning of any state constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the Authority or the State or a charge against the general credit of the Authority or the State or the taxing powers of the State.

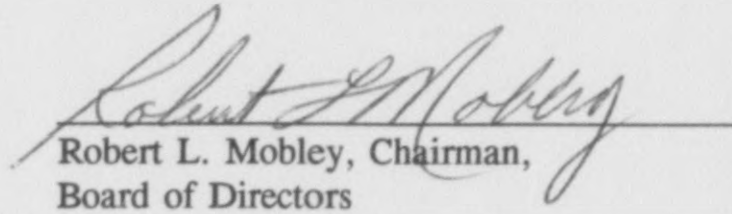
Section 7. Upon receipt by the Authority from the Borrower of evidence, which shall be satisfactory to the Authority, of the economic feasibility of the Project, there shall be and is hereby authorized and directed the submission on behalf of the Authority, of a Petition requesting approval by the State Budget and Control Board of South Carolina pursuant to the provisions of Section 41-43-110 of the Act of the issuance of the Bonds through public or private sale, said Petition, which constitutes and is hereby made a part of this authorizing resolution, to be in form acceptable to the State Budget and Control Board.

Section 8. The Chairman of the Board of Directors of the Authority shall be and is hereby authorized and directed to execute said Petition in the name and on behalf of the Authority, and the Executive Director of the Authority shall be and is hereby authorized and directed to affix the seal of the Authority to said Petition and to attest the same and thereafter, upon the conditions set forth hereinabove, to submit an executed copy of this resolution to the State Budget and Control Board of South Carolina.

Section 9. All orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed, and this resolution shall take effect and be in full force from and after its passage and approval.

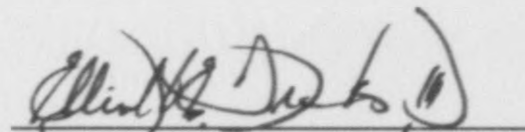
Passed and approved December 14, 1994.

SOUTH CAROLINA JOBS-ECONOMIC
DEVELOPMENT AUTHORITY


Robert L. Mobley, Chairman,
Board of Directors

(SEAL)

ATTEST:


Elliott E. Franks, III,
Executive Director

[Form of Opinion of Bond Counsel]

_____, 1995

South Carolina Jobs-Economic
Development Authority
Columbia, South Carolina

Re: \$2,000,000 South Carolina Jobs-Economic Development Authority, Economic
Development Revenue Bonds (Herrenknecht Corporation Project) Series 1995

Gentlemen:

We have served as Bond Counsel in connection with the issuance by the South Carolina Jobs-Economic Development Authority (the "Issuer") of its \$2,000,000 Economic Development Revenue Bonds (Herrenknecht Corporation Project) Series 1995 (the "Bonds"). The Bonds have been issued pursuant to the terms of an Indenture of Trust dated as of February 1, 1995 (the "Indenture"), between the Issuer and _____, as trustee (the "Trustee"). The proceeds of the Bonds will be used to defray the cost of a certain project pursuant to a Loan Agreement dated as of February 1, 1995 (the "Loan Agreement"), by and between the Issuer and Herrenknecht Corporation (the "Borrower"). Pursuant to the Loan Agreement, the Borrower is obligated to make payments to or on behalf of the Issuer sufficient to pay the principal and purchase price of, premium, if any, and interest on the Bonds. Unless otherwise indicated, all capitalized terms as used in this opinion shall have the meanings set forth in Article I of the Indenture.

In connection with our opinion, we have examined the Constitution and laws of the State, particularly Title 41, Chapter 43, Code of Laws of South Carolina, 1976, as amended (the "Act"), the transcript of the proceedings with respect to the Bonds, certified copies of documents relating to the organization of the Issuer, and certified copies of proceedings and other papers relating to the issuance and sale by the Issuer of the Bonds, including the resolution adopted by the Issuer on _____, 1995, authorizing the issuance of the Bonds.

The Bonds will be issued as fully registered bonds and will bear a dated date of February ___, 1995. The Bonds are payable by the Issuer solely from the funds provided pursuant to the Indenture. Under the terms of the Indenture and the Loan Agreement, the Borrower will provide initially a Letter of Credit to secure payment of the principal and purchase price of and interest on the Bonds,

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EXHIBIT

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South Carolina Jobs-Economic
Development Authority
February __, 1995
Page 2

STATE BUDGET & CONTROL BOARD

issued on behalf of the Borrower. _____ (the "Bank"), has, subject to the termination dates specified therein, issued its irrevocable direct-pay Letter of Credit with respect to the Bonds. The Borrower has also granted to the Bank a security interest in certain real and personal property pursuant to a Mortgage and Security Agreement dated as of February 1, 1995 (the "Mortgage"), made by the Borrower, as Mortgagor, to the Bank, as Mortgagee. We refer you to the Bonds, the Loan Agreement, and the Indenture for a further description of the Bonds, the purposes for which the Bonds are issued and the security therefor.

Reference is made to an opinion of even date of McNair & Sanford, P.A., counsel to the Borrower, with respect, among other matters, to the power of the Borrower to enter into and perform the Loan Agreement and the authorization, execution and delivery of the Loan Agreement by the Borrower and with respect to the Loan Agreement being binding and enforceable upon the Borrower.

With respect to the due authorization, execution and delivery of the Letter of Credit by the Bank, the validity thereof and enforceability thereof against the Bank, we refer you to the opinion of _____ of even date herewith addressed to you.

As to questions of fact material to our opinion, we have relied upon representations of and compliance with covenants by the Borrower and the Issuer contained in the Loan Agreement, the Indenture, certificates of public officials furnished to us, and certificates of representatives of the Borrower, the Trustee, the Issuer, the Bank, and other parties, including, without limitation, representations, covenants and certifications as to certain prior tax-exempt bond issues, the use of the proceeds of the Bonds, certain capital expenditures of the Borrower and others, compliance with the arbitrage reporting and rebate requirements, the average reasonably expected economic life of the property being financed with the proceeds of the Bonds, and other factual matters which are relevant to the opinion expressed in paragraph 7, in each case without undertaking any independent verification. We have assumed that all signatures on documents, certificates and instruments examined by us are genuine, all documents, certificates and instruments submitted to us as originals are authentic and all documents, certificates and instruments submitted to us as copies conform to the originals. In addition, we have assumed that all documents, certificates and instruments relating to this financing have been duly authorized, executed and delivered by all parties thereto other than the Issuer, and we have further assumed the due organization, existence and powers of such other parties other than the Issuer and the Borrower.

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Based upon the foregoing, we are of the opinion that, under existing law:

1. The Issuer is a validly existing public body corporate and politic and an agency of the State of South Carolina, duly created by the Act, and is vested with the rights and powers conferred by the Act.
2. The Issuer has all requisite authority and power under the Act, particularly Section 41-43-110 thereof, to issue the Bonds and to enter into and perform its obligations under the Indenture and the Loan Agreement and to apply the proceeds from the issuance of the Bonds as contemplated by the Loan Agreement.
3. The Bonds have been duly authorized and issued in accordance with the Act and the Indenture and, subject to paragraph 6 below, constitute valid, binding and enforceable limited obligations of the Issuer, payable by the Issuer solely from the revenues and receipts pledged to such purpose under the Indenture and from amounts drawn under the Letter of Credit. The Bonds do not create or constitute a pledge of the faith and credit or the taxing power of the Issuer or the State. Neither the Issuer nor the State is obligated to make any payment with respect to the Bonds except from the special funds provided therefor and the property pledged thereto under the Indenture.
4. The Indenture and the Loan Agreement have been duly authorized, executed and delivered by the Issuer, and, subject to paragraph 6 below, constitute valid and binding agreements of the Issuer enforceable against the Issuer in accordance with their respective terms.
5. The Issuer's right, title and interest in the Loan Agreement (except the Issuer's right to indemnity, notices and payment of its expenses) have been assigned to the Trustee, and, subject to paragraph 6 below, such assignment constitutes a valid and binding assignment of the Issuer, enforceable against the Issuer in accordance with its terms.
6. It is to be understood that the rights of the Bondholders and the obligations of the parties under the Bonds, the Indenture and the Loan Agreement are subject to the exercise of judicial discretion in accordance with general principles of equity, and to the provisions of applicable bankruptcy, insolvency, reorganization, moratorium and similar laws, now or hereafter in effect, relating to or affecting the enforcement of creditors' rights. Certain indemnity provisions may be unenforceable pursuant to court decisions invalidating such indemnity agreements on grounds of public policy.

7. Under existing law, the interest on the Bonds is excludable from gross income for federal income tax purposes, except that under Section 147(a) of the Internal Revenue Code of 1986, as amended (the "Code"), such federal exclusion from gross income shall not apply with respect to any particular Bond for any period during which held by a "substantial user" of the Project or a "related person" within the meaning of such Section. Also, such exclusion from gross income of interest for federal income tax purposes may become inapplicable with respect to all or part of the Bonds, in certain cases retroactive to the date of issuance, (i) in the event of the occurrence of certain contingencies relating to prior issues and capital expenditures by the Borrower or any principal user of the Project or any persons related to the Borrower or any principal user of the Project provided for in Section 144(a) of the Code, or (ii) in the event the Borrower or the Issuer fails to comply with certain covenants in the Indenture and Loan Agreement with respect to maintenance of the exclusion from gross income for federal income tax purposes for the interest on the Bonds, including use, investment and expenditure of Bond proceeds and use of the facilities financed with Bond proceeds. Interest on the Bonds must be included as an item of tax preference in the computation of the alternative minimum tax on corporations and on individuals imposed by Section 55 of the Code. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

Ownership of the Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits and taxpayers who may be deemed to have incurred (or continued) indebtedness to purchase or carry tax-exempt obligations.

7. Under present law, interest on the Bonds is exempt from all income taxation by the State, except estate and certain transfer fees. Certain taxes, however, specifically including the tax imposed on banks by Section 12-11-20, Code of Laws of South Carolina, 1976, as amended, are enforced as franchise taxes on some measure of assets or income, which may include the Bonds or income therefrom.

8. The Bonds constitute exempt securities under Section 3(a)(2) of the Securities Act of 1933, as amended to this date (the "Securities Act"), and under Section 3(a) of the Securities Exchange Act of 1934, as amended to this date, and the offer, sale and delivery of the Bonds do not require registration of the Bonds under the Securities Act, nor is qualification of the Indenture required by the Trust Indenture Act of 1939, as amended to this date.

South Carolina Jobs-Economic
Development Authority
February __, 1995
Page 5

It is to be understood that the rights of the Bondholders and the obligations of the parties under the Bonds, the Indenture and the Loan Agreement are subject to the exercise of judicial discretion in accordance with general principles of equity, the valid exercise of the constitutional powers of the United States and the police powers of the State and to the provisions of applicable bankruptcy, insolvency, reorganization, moratorium and similar laws, now or hereafter in effect, relating to or affecting the enforcement of creditors' rights. Certain indemnity provisions may be unenforceable pursuant to court decisions invalidating such indemnity agreements on grounds of public policy.

We have been retained solely for the purpose of examining into the validity and legality of the Bonds and of rendering certain specific opinions hereinbefore stated and for no other purpose. We have not verified the accuracy, completeness or fairness of any representations or information concerning the business or financial condition of the Borrower or any other party made, prepared or issued by any party, or on behalf of any party, in connection with the sale of the Bonds. Accordingly, we express no opinion on the completeness, fairness or adequacy of any such representations or information.

Very truly yours,

McNAIR & SANFORD, P.A.

EXHIBIT

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

JAN 10 1995

5

STATE BUDGET & CONTROL BOARD



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

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

December 28, 1994

MEMORANDUM

TO: Alice Broadwater; Wayne Rush
FROM: Donna Kaminer Williams *DKW*
SUBJECT: Review of Revenue Bond Proposal

Enclosed is the following proposal for the issuance of bonds which has been submitted for the Tuesday, January 10, 1995, Budget and Control Board agenda:

Jobs-Economic Development Authority
Not Exceeding \$2,000,000 Economic Development Revenue Bonds
Herrenknecht Corporation project

For this proposal to be included on the January 10 agenda, I must have the written results of your review before 9:30 a.m. on Thursday, January 5, 1995.

DKW/laf
Enclosure

004026

EXHIBIT

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

JAN 10 1995

5

STATE BUDGET & CONTROL BOARD

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

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995

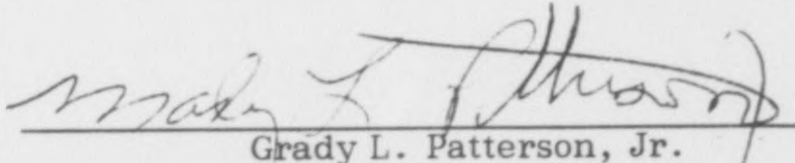
C E R T I F I C A T E
STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS
(UNDER TAX REFORM ACT OF 1986)
TENTATIVE ALLOCATION, CALENDAR YEAR 1995

TO: Jobs-Economic Development Authority
\$2,000,000 Economic Development Revenue Bonds
Herrenknecht Corporation Project

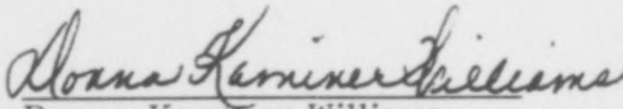
C/O: Ms. Kathleen Crum McKinney
McNair & Sanford, P.A.
Suite 601, NationsBank Plaza
Greenville, SC 29601

In accord with Section 1-11-500 et seq. of the South Carolina Code of Laws, 1976, as amended, the State Budget and Control Board has made a tentative allocation of the State Ceiling established in the Tax Reform Act of 1986 in the amount indicated to the referenced bonds/notes and project. This allocation is valid for calendar year 1995 only. It will expire on **April 10, 1995**, which is ninety (90) consecutive calendar days from the date the allocation was approved by the Board, if the bonds/notes for which the allocation has been approved have not been issued prior to that time.

Before this tentative allocation becomes final, Code Section 1-11-550 requires that the exact amount of the bonds/notes being issued be certified to the Board Secretary by the issuing authority **before** the issue is made. In response to that issue amount certificate, the Secretary will issue a certificate which makes the ceiling allocation final.


Grady L. Patterson, Jr.

Attest:


Donna Kammer Williams
Secretary to the Board

004027

JAN 10 1995

5

A RESOLUTION APPROVING THE ISSUANCE BY THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY THROUGH PRIVATE SALE OF NOT EXCEEDING \$2,000,000 ECONOMIC DEVELOPMENT REVENUE BONDS (HERRENKNECHT CORPORATION PROJECT), PURSUANT TO THE PROVISIONS OF SECTION 41-43-110 OF SOUTH CAROLINA CODE ANNOTATED, TITLE 41, CHAPTER 43 (1976), AS AMENDED.

WHEREAS, the South Carolina Jobs-Economic Development Authority (the "Authority") has heretofore under and pursuant to the provisions of Section 41-43-110 of South Carolina Code Annotated, Title 41, Chapter 43 (1976), as amended (the "Act"), requested approval by the State Budget and Control Board of the issuance by the Authority pursuant to the Act of its Economic Development Revenue Bonds (Herrenknecht Corporation Project), in the aggregate principal amount of not exceeding \$2,000,000 (the "Bonds"); and

WHEREAS, the Issuer proposes to issue the Bonds for the purpose of defraying the cost of acquiring, by construction and purchase, a building or buildings, other improvements, and certain machinery, apparatus, equipment, office facilities and furnishings (the "Project") to be used for the purpose of manufacturing component parts for tunnelling systems; and

WHEREAS, the Project is to be made available to Herrenknecht Corporation (the "Company") upon terms which require the Company to make payments to or for the account of the Issuer in amounts sufficient to pay the principal and interest on the Bonds; and

NOW, THEREFORE, BE IT RESOLVED, by the State Budget and Control Board of the State of South Carolina, as follows:

Section 1. It is hereby found, determined and declared by the Board that: the Petition filed by the Authority contains all matters required by law and the rules of this Board to be set forth therein, and that in consequence thereof the jurisdiction of this Board has been properly invoked under and pursuant to Section 41-43-110 of the Act.

Section 2. In consequence of the foregoing, the proposal of the Authority to defray the cost of acquiring the Project, to make the Project available to the Company, to finance the cost thereof and expenses incidental thereto by the execution and delivery of the Bonds, secured by an assignment of the revenues to be derived from the Loan Agreement, be and the same is hereby in all respects approved. This approval shall not be affected by any changes in the details of the proposal of the Issuer so long as such changes do not impose a pecuniary liability upon the Issuer or its general credit or taxing power, are approved by the Board of Directors of the Authority and the Company, and do not make inaccurate, except as to dates and amounts, the summaries of the Loan Agreement and the Indenture and the description of the Project.

Section 3. This Resolution shall take effect immediately.

(b)

004078

STATE OF SOUTH CAROLINA

JAN 10 1995

5

State Budget and Control Board

STATE BUDGET & CONTROL BOARD

OFFICE OF THE EXECUTIVE DIRECTOR

CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNORGRADY L. PATTERSON, JR.
STATE TREASUREREARLE E. MORRIS, JR.
COMPTROLLER GENERALJOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEEWILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEELUTHER F. CARTER
EXECUTIVE DIRECTORP.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995


C E R T I F I C A T E
STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS
(UNDER TAX REFORM ACT OF 1986)
TENTATIVE ALLOCATION, CALENDAR YEAR 1995

TO: Jobs-Economic Development Authority
\$2,000,000 Economic Development Revenue Bonds
Herrenknecht Corporation Project

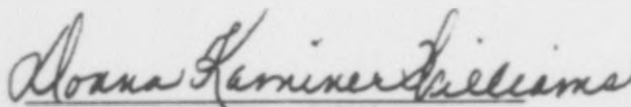
C/O: Ms. Kathleen Crum McKinney
McNair & Sanford, P.A.
Suite 601, NationsBank Plaza
Greenville, SC 29601

In accord with Section 1-11-500 et seq. of the South Carolina Code of Laws, 1976, as amended, the State Budget and Control Board has made a tentative allocation of the State Ceiling established in the Tax Reform Act of 1986 in the amount indicated to the referenced bonds/notes and project. This allocation is valid for calendar year 1995 only. It will expire on **April 10, 1995**, which is ninety (90) consecutive calendar days from the date the allocation was approved by the Board, if the bonds/notes for which the allocation has been approved have not been issued prior to that time.

Before this tentative allocation becomes final, Code Section 1-11-550 requires that the exact amount of the bonds/notes being issued be certified to the Board Secretary by the issuing authority **before** the issue is made. In response to that issue amount certificate, the Secretary will issue a certificate which makes the ceiling allocation final.


Grady L. Patterson, Jr.

Attest:


Donna Kammer Williams
Secretary to the Board

004029

Information Return for Tax-Exempt
Private Activity Bond Issues
(Under Internal Revenue Code section 149(e))

OMB No. 1545-0720

See separate instructions.

Part I Reporting Authority

If Amended Return, check here ☐

1 Issuer's name South Carolina Jobs-Economic Development Authority		2 Issuer's employer identification number 57 : 6000286
3 Number and street (or P.O. Box if mail is not delivered to street address) 1201 Main Street, Suite 1750	Room/suite	4 Report number PA 1995 - 05
5 City or town, state, and ZIP code Columbia, South Carolina 29201		6 Date of issue April 10, 1995
7 Name of issue Economic Development Revenue Bonds (Herrenknecht Corporation Project) Series 1995		8 CUSIP number

Part II Type of Issue (check applicable box(es) and enter the Issue price for each)

Issue Price

9 Exempt facility bond:

a	<input type="checkbox"/> Airport (sections 142(a)(1) and 142(c))	9a
b	<input type="checkbox"/> Docks and wharves (sections 142(a)(2) and 142(c))	9b
c	<input type="checkbox"/> Mass commuting facilities (sections 142(a)(3) and 142(c))	9c
d	<input type="checkbox"/> Water furnishing facilities (sections 142(a)(4) and 142(e))	9d
e	<input type="checkbox"/> Sewage facilities (section 142(a)(5))	9e
f	<input type="checkbox"/> Solid waste disposal facilities (section 142(a)(6))	9f
g	<input type="checkbox"/> Qualified residential rental projects (sections 142(a)(7) and 14(d)), as follows:	9g
	Meeting 20-50 test (section 142(d)(1)(A))	<input type="checkbox"/>
	Meeting 40-60 test (section 142(d)(1)(B))	<input type="checkbox"/>
	Meeting 25-60 test (NYC only) (section 142(d)(6))	<input type="checkbox"/>
	Has an election been made for deep rent skewing (section 142(d)(4)(B))?	<input type="checkbox"/> Yes <input type="checkbox"/> No
h	<input type="checkbox"/> Facilities for the local furnishing of electric energy or gas (sections 142(a)(8) and 142(f))	9h
i	<input type="checkbox"/> Local district heating or cooling facilities (sections 142(a)(9) and 142(g))	9i
j	<input type="checkbox"/> Qualified hazardous waste facilities (sections 142(a)(10) and 142(h))	9j
k	<input type="checkbox"/> High-speed intercity rail facilities (sections 142(a)(11), 142(c), and 142(i))	9k
	Check box if the owner elected not to claim depreciation or any tax credit (see instructions)	<input type="checkbox"/>
l	<input type="checkbox"/> Environmental enhancements of hydroelectric generating facilities (sections 142(a)(12) and 142(j))	9l
m	<input type="checkbox"/> Facilities allowed under a transitional rule of the Tax Reform Act of 1986 (see instructions)	9m
	Facility type	
	1986 Act section	
10	<input type="checkbox"/> Qualified mortgage bond (section 143(a)) (see instructions)	10
	If you elect to rebate arbitrage profits to the United States, check box	<input type="checkbox"/>
11	<input type="checkbox"/> Qualified veterans' mortgage bond (section 143(b))	11
	If you elect to rebate arbitrage profits to the United States, check box	<input type="checkbox"/>
12	<input checked="" type="checkbox"/> Qualified small issue bond (section 144(a)) (see instructions)	12 1,000,000
	For \$10 million small issue exemption, check box	004030 <input type="checkbox"/>
13	<input type="checkbox"/> Qualified student loan bond (section 144(b))	13
14	<input type="checkbox"/> Qualified redevelopment bond (section 144(c))	14
15	<input type="checkbox"/> Qualified hospital bond (section 145(c)) (attach schedule-see instructions)	15
16	<input type="checkbox"/> Qualified 501(c)(3) bond other than a qualified hospital bond (attach schedule-see instructions)	16
17	<input type="checkbox"/> Nongovernmental output property bond (treated as private activity bond) (section 141(d))	17
18	<input type="checkbox"/> Other. Describe (see instructions)	18

Part III Description of Bonds

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19 Final maturity	3-28-2008	7.14 %	\$ 6,944	\$ 6,944			
20 Entire issue			\$ 1,000,000	\$ 1,000,000	6.8837 years	7.14%	7.14%

Part IV Uses of Original Proceeds of Issue (including underwriters' discount)			Amount
21	Proceeds used for accrued interest	21	-0-
22	Issue price of entire issue (enter amount from line 20, column(c))	22	1,000,000
23	Proceeds used for bond issuance costs (including underwriters' discount)	23	20,000
24	Proceeds used for credit enhancement	24	-0-
25	Proceeds allocated to reasonably required reserve or replacement fund	25	-0-
26	Proceeds used to refund prior issues (complete Part VI)	26	-0-
27	Total (add lines 23 through 26)	27	20,000
28	Nonrefunding proceeds of the issue (subtract line 27 from line 22 and enter amount here)	28	980,000

Part V Description of Property Financed by Nonrefunding Proceeds (Do not complete for qualified student loan bonds, qualified mortgage bonds, or qualified veterans' mortgage bonds.)		Amount
29	Type of Property Financed by Nonrefunding Proceeds:	
a	Land	29a
b	Buildings and structures	29b 600,000
c	Equipment with recovery period of more than 5 years	29c 380,000
d	Equipment with recovery period of 5 years or less	29d
e	Other (describe)	29e
30	Standard industrial classification (SIC) of the projects financed by nonrefunding proceeds.	
	SIC Code	Amount of nonrefunding proceeds
a		\$980,000
b		\$

Part VI Description of Refunded Bonds (Complete this part only for refunding bonds.)	
31	Enter the remaining weighted average maturity of the bonds to be refunded
32	Enter the last date on which the refunded bonds will be called
33	Enter the date(s) the refunded bonds were issued

Part VII Miscellaneous	
34	Name of governmental unit(s) approving issue (see instructions) South Carolina Jobs-Economic Development Authority, State Budget & Control Board, and Spartanburg County, SC
35	Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III)
36	If you have elected to pay a penalty in lieu of rebate, check box <input type="checkbox"/>

Part VIII Volume Cap		Amount
37	Amount of volume cap allocated to the issuer. Attach copy of state certification	37
38	Amount of issue subject to the unified state volume cap	38 1,000,000
39	Amount of issue not subject to the unified state volume cap or other volume limitations:	
a	Of bonds for governmentally owned solid waste facilities, airports, docks, wharves, environmental enhancements of hydroelectric generating facilities, or high-speed intercity rail facilities	39a
b	Under a carryforward election. Attach a copy of Form 8328 to this return	39b
c	Under transitional rules of the Tax Reform Act of 1986	39c
	Enter the Act section of the applicable transitional rule	
d	Under the exception for current refunding (section 1313(a) of the Tax Reform Act of 1986).	39d
40	Amount of issue of qualified 501(c)(3) bonds:	
a	Qualified hospital bonds	40a
b	Qualified nonhospital bonds	40b
c	Outstanding tax-exempt nonhospital bonds	40c
41a	Amount of issue of qualified veterans' mortgage bonds	41a
b	Enter the state limit on qualified veterans' mortgage bonds	41b

Please
Sign
Here

Under penalties of perjury, I declare that I have examined this return, and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of officer

Charles L. Appleby, III

Name of above officer (type or print)

April 10, 1995

Date

Chairman

Title of officer (type or print)

McNAIR & SANFORD, P.A.

ATTORNEYS AND COUNSELORS AT LAW

NATIONSBANK PLAZA/SUITE 601
7 NORTH LAURENS STREET
GREENVILLE, SOUTH CAROLINA 29601

TELEPHONE: 803/271-4940

FAX: 803/271-4015

FAX COVER LETTER

CONFIDENTIAL & PRIVILEGED
INFORMATION

DATE & TIME: April 7, 1995

TRANSMITTED BY: K. Yeatts / P. Fowler

TO: Donna Kaminer Williams

State Budget and Control Board

FAX NUMBER: 803-734-2117

TOTAL NUMBER OF PAGES
(INCLUDING COVER): 4

FROM: Kathy McKinney EXTENSION:

CLIENT/
MATTER NUMBER: 023216.00002 - Herrenknecht Corporation

COMMENTS: See attached letter requesting final volume allocation.

The information contained in this facsimile message is confidential, protected by the attorney client privilege and intended for the use of only the individual or entity named above. If the reader of the message or information is not the intended recipient of the message or information transmitted herewith, you are hereby notified that any dissemination, distribution or copying of the message or information is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

M&S7/6/94

004032

004032 - 000000

McNAIR & SANFORD, P.A.
ATTORNEYS AND COUNSELORS AT LAW

NATIONSBANK PLAZA/SUITE 601
7 NORTH LAURENS STREET
GREENVILLE, SOUTH CAROLINA 29601

TELEPHONE 803/271-4940
FACSIMILE 803/271-4015

CHARLESTON OFFICE
140 EAST BAY STREET
POST OFFICE BOX 1431
CHARLESTON, SC 29402
TELEPHONE 803/723-7831
FACSIMILE 803/722-3227

COLUMBIA OFFICE
NATIONSBANK TOWER
601 GERMANS STREET
POST OFFICE BOX 11390
COLUMBIA, SC 29211
TELEPHONE 803/799-9800
FACSIMILE 803/799-9804

GEORGETOWN OFFICE
121 SCREVEN STREET
POST OFFICE DRAWER 418
GEORGETOWN, SC 29442
TELEPHONE 803/546-6102
FACSIMILE 803/546-0096

RALEIGH OFFICE
RALEIGH FEDERAL BUILDING
ONE EXCHANGE PLAZA
SUITE 810
POST OFFICE BOX 2447
RALEIGH, NC 27602
TELEPHONE 919/890-4190
FACSIMILE 919/890-4190

SPARTANBURG OFFICE
SPARTAN CENTRE/SUITE 306
101 WEST ST. JOHN STREET
POST OFFICE BOX 6137
SPARTANBURG, SC 29304
TELEPHONE 803/542-1300
FACSIMILE 803/522-0705

WASHINGTON OFFICE
MADISON OFFICE BUILDING
SUITE 400
1155 FIFTEENTH STREET NORTHWEST
WASHINGTON, DC 20005
TELEPHONE 202/659-3900
FACSIMILE 202/659-5763

April 7, 1995

Ms. Donna Kaminer Williams
Assistant Executive Director
State Budget and Control Board
612 Wade Hampton Office Building
Columbia, South Carolina 29211

VIA FAX 803-734-2117

Re: \$1,000,000 South Carolina Jobs-Economic Development Authority, Economic
Development Revenue Bonds (Herrenknecht Corporation Project) Series 1995

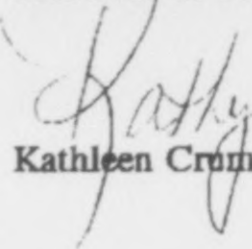
Dear Donna:

In accordance with the regulations of the State Budget and Control Board, I am submitting on behalf of South Carolina Jobs-Economic Development Authority and Herrenknecht Corporation, IRS Form 8038. Please confirm the allocation of \$1,000,000 of the State volume to the above-captioned issue. This issue is scheduled to close Monday, April 10, 1995. Please fax the final allocation to us as soon as possible.

Thank you for your assistance.

Sincerely,

McNAIR & SANFORD, P.A.


Kathleen Crum McKinney

KCM/pkf
Enclosure

GRVL:35556

004033

EXHIBIT

TRANSMITTAL FORM, REVENUE BONDS

JAN 10 1995

6

TO: Donna Kaminer Williams, Board Secretary
State Budget and Control Board
601 Wade Hampton Building
Columbia, SC 29201

STATE BUDGET & CONTROL BOARD
DATE: December 27, 1994

Submitted for BCB Meeting on:
January 10, 1995

OR P.O. Box 12444, Columbia, SC 29211

FROM:

McNAIR & SANFORD, P.A.

RE:

N/E \$9,500,000

Name of Law Firm

Suite 601, NationsBank Plaza

Amount of Issue

S.C. Jobs-Economic Development

Street Address/Box Number

Greenville, SC 29601

Name of Issuing Authority

Economic Development Revenue

City, State, Zip Code

(803) 271-4940

Type of Bonds or Notes

February 1995

Area Code/Telephone Number

Projected Issue Date

Project Name: Venture Packaging, Inc. Project

Project Description: manufacture of plastic parts

Employment as a result of the project: approx. 80 within 12 mos. & 100 within 24 mos.

Ceiling Allocation Required

Refunding Involved

Project Approved Previously

X Yes (\$ 9,500,000) No Yes (\$) X No Yes (\$) X No
Amount Amount Amount

Documents enclosed (executed original and two copies of each):

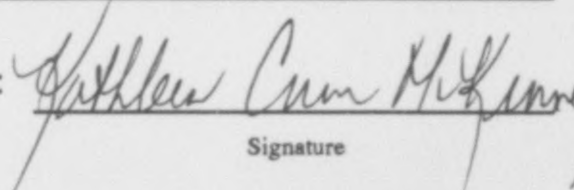
(ALL documents required for state law approval; A and C only for ceiling allocation only.)

- A. ☒ Petition
- B. ☒ Resolution or Ordinance
- C. ☒ Inducement Resolution or comparable preliminary approval
- D. ☐ Department of Health and Environmental Control Certificate *if required*
- E. ☒ Budget and Control Board Resolution and Public Notice (*original*)
Plus 5 copies for certification and return to bond counsel
- F. ☒ Draft bond counsel opinion letter
- G. ☐ Processing Fee N/A

Amount: \$ Check No:

Payor:

Bond Counsel: Kathleen Crum McKinney, Esq.

By: 

Typed Name of Bond Counsel

Signature

EXHIBIT

JAN 10 1995

6

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

STATE BUDGET & CONTROL BOARD
Venture Packaging. Inc.

I, DONNA KAMINER WILLIAMS, SECRETARY to the South Carolina State Budget and Control Board, DO HEREBY CERTIFY:

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

His Excellency, Carroll A. Campbell, Jr., Governor and Chairman of the Board;

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

The Honorable Earle E. Morris, Jr., Comptroller General;

The Honorable John Drummond, Chairman of the Senate Finance Committee; and

The Honorable Henry E. Brown, Jr., Chairman of the House Ways and Means Committee.

That due notice of a meeting of the Board, called to be held in Columbia, South Carolina, at 9:30 a.m. on Tuesday, January 10, 1995, was given to all members in writing at least four days prior to the meeting and that, in compliance with the Freedom of Information Act, public notice of and the agenda index 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, in the lobby of the Wade Hampton Office Building, and near the Board Secretary's Office on the Sixth Floor of the Wade Hampton Office Building at 4:30 p.m. on Friday, January 6, 1995.

That all members of the Board were present at the meeting.

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

FOR MOTION

5

AGAINST MOTION

0

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

January 10, 1995

Donna Kaminer Williams

004035

A RESOLUTION APPROVING THE ISSUANCE BY THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY THROUGH PRIVATE SALE OF NOT EXCEEDING \$9,500,000 ECONOMIC DEVELOPMENT REVENUE BONDS (VENTURE PACKAGING, INC. PROJECT), PURSUANT TO THE PROVISIONS OF SECTION 41-43-110 OF SOUTH CAROLINA CODE ANNOTATED, TITLE 41, CHAPTER 43 (1976), AS AMENDED.

WHEREAS, the South Carolina Jobs-Economic Development Authority (the "Authority") has heretofore under and pursuant to the provisions of Section 41-43-110 of South Carolina Code Annotated, Title 41, Chapter 43 (1976), as amended (the "Act"), requested approval by the State Budget and Control Board of the issuance by the Authority pursuant to the Act of its Economic Development Revenue Bonds (Venture Packaging, Inc. Project), in the aggregate principal amount of not exceeding \$9,500,000 (the "Bonds"); and

WHEREAS, the Issuer proposes to issue the Bonds for the purpose of defraying the cost of acquiring, by construction and purchase, a building or buildings, other improvements, and certain machinery, apparatus, equipment, office facilities and furnishings (the "Project") to be used for the purpose of manufacturing plastic parts; and

WHEREAS, the Project is to be made available to Venture Packaging, Inc. (the "Company") upon terms which require the Company to make payments to or for the account of the Issuer in amounts sufficient to pay the principal and interest on the Bonds; and

NOW, THEREFORE, BE IT RESOLVED, by the State Budget and Control Board of the State of South Carolina, as follows:

Section 1. It is hereby found, determined and declared by the Board that: the Petition filed by the Authority contains all matters required by law and the rules of this Board to be set forth therein, and that in consequence thereof the jurisdiction of this Board has been properly invoked under and pursuant to Section 41-43-110 of the Act.

Section 2. In consequence of the foregoing, the proposal of the Authority to defray the cost of acquiring the Project, to make the Project available to the Company, to finance the cost thereof and expenses incidental thereto by the execution and delivery of the Bonds, secured by an assignment of the revenues to be derived from the Loan Agreement, be and the same is hereby in all respects approved. This approval shall not be affected by any changes in the details of the proposal of the Issuer so long as such changes do not impose a pecuniary liability upon the Issuer or its general credit or taxing power, are approved by the Board of Directors of the Authority and the Company, and do not make inaccurate, except as to dates and amounts, the summaries of the Loan Agreement and the Indenture and the description of the Project.

Section 3. This Resolution shall take effect immediately.

004036

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3680
FACSIMILE: 803-253-6283

January 4, 1995

EXHIBIT

JAN 10 1995

6

STATE BUDGET & CONTROL BOARD

Donna Williams
Secretary to the Board
State Budget and Control Board
612 Wade Hampton Office Building
Post Office Box 12444
Columbia, South Carolina 2921

Re: Jobs-Economic Development Authority
Not Exceeding \$9,500,000 Economic Development Revenue Bonds
Venture Packaging, Inc. project

Dear Ms. Williams:

This Office has received the letter you have forwarded to us regarding the Venture Packaging, Inc. project.

Please be advised that to the knowledge of this Office there is no known litigation of any nature, now pending or threatened, that would restrain or enjoin the issuance and delivery of the Bonds, nor in any manner question the proceedings and authority under which the same is made or affect the validity of the Bonds thereunder.

No opinion is expressed as to any matters other than as set forth herein. Specifically no opinion is expressed as to any business judgment decisions in relation to this transaction.

Office of the Attorney General

By: Alice C. Broadwater

ACB/fg

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



CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

1201 MAIN STREET, SUITE 420
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-3880
(803) 737-0592 Fax

HELEN T. ZEIGLER
DIRECTOR

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

January 5, 1995

The Honorable Donna K. Williams
Secretary
S. C. Budget and Control Board
601 Wade Hampton Office Building
Columbia, South Carolina 29201

RE: Jobs-Economic Development Authority
Not Exceeding \$9,500,000 Economic Development Revenue Bonds
Venture Packaging, Inc. Project

Dear Mrs. Williams:

We have received the Revenue Bonds Transmittal Form and other items regarding the referenced proposed bonds.

These documents have been submitted by Bond Counsel, McNair and Sanford, P.A. and upon review of the Petition to the Budget and Control Board, the proposed Resolution of the Budget and Control Board and the draft of the Opinion of Bond Counsel appear to be in good order. Of course, we express no opinion as to the merits of the bond issue or the validity of the information recited in these documents as we have not acted in a capacity which would enable us to have knowledge adequate to form such an opinion. We have merely reviewed the documents form and they appear to meet the conditions imposed by State law that certain matters be addressed in the documentation.

Sincerely,

A handwritten signature in cursive script that reads "Wayne F. Rush".

Wayne F. Rush
General Counsel

004038

EXHIBIT

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

JAN 10 1995 6
STATE BUDGET & CONTROL BOARD

TO THE STATE BUDGET AND CONTROL)
BOARD OF SOUTH CAROLINA) PETITION OF SOUTH
CAROLINA JOBS-ECONOMIC
DEVELOPMENT AUTHORITY)

This Petition of the South Carolina Jobs-Economic Development Authority (the "Authority"), pursuant to South Carolina Code Annotated, Title 41, Chapter 43 (1976), as amended (the "Act"), and specifically Section 41-43-110 thereof, respectfully shows:

1. The Act, among other things, empowers the Authority: (i) to acquire and, in connection with such acquisition, to enlarge, improve and expand, whether by construction, purchase, gift or lease, one or more business enterprises (as referred to in Section 41-43-160 of the Act) which shall be located within the jurisdiction of the State of South Carolina; (ii) to make available to any business enterprise located in South Carolina such projects for such payments and upon such terms and conditions as the Authority may deem advisable and as shall not conflict with the provisions of the Act; and (iii) subject to the approval of the State Budget and Control Board of the issuance of its bonds through public or private sale pursuant to Section 41-43-110 of the Act, to issue revenue bonds, as defined in the Act to include notes, for the purpose of defraying the cost of acquiring, by construction and purchase, and in connection with any such acquisition, to enlarge, improve and expand any project and to secure the payment of such bonds, all as in the Act provided.

2. The Authority has agreed to assist Venture Packaging, Inc., an Ohio corporation (the "Borrower"), by issuing its revenue bonds for the purpose of financing the acquisition and construction of certain facilities for the manufacture of plastic products, constituting an industrial facility (the "Project") located in Anderson County, South Carolina.

3. The undersigned Executive Director of the Authority certifies that approval of this Project was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

4. The Authority has been advised by the Borrower that the estimated cost of financing the Project will be not exceeding \$9,500,000, and the Borrower has requested the Authority to execute and deliver its Economic Development Revenue Bonds (Venture Packaging, Inc. Project) (the "Bonds") in the aggregate principal amount of not exceeding \$9,500,000.

5. The Bonds will be placed by a financial institution acceptable to the Authority through a private placement, which arrangement the Authority has determined to be most advantageous.

6. Pursuant to Section 41-43-150 of the Act, the Authority has made the requisite findings that:

(a) The Borrower is engaged in the business of manufacturing plastic products and the Project is located in Anderson County, South Carolina.

(b) The Project constitutes a "business enterprise" as said term is referred to in Section 41-43-160 of the Act, and the issuance of the Bonds in the aggregate principal amount of not exceeding \$9,500,000 to finance the Project will subserve the purposes and in all respects conform to the provisions and requirements of the Act.

(c) It is anticipated that the Project will benefit the general public welfare of the State of South Carolina, and Anderson County in particular, by providing employment for approximately 80 people within 12 months and 100 people within 24 months from Anderson County and adjacent areas, with a resulting alleviation of unemployment and a substantial increase in payrolls and other public benefits incident to the conduct of such businesses not otherwise provided locally, and the number of jobs resulting from the assistance authorized herein bears a reasonable relationship to the principal amount of the Bonds.

(d) The size and scope of the Project is such that a definite benefit to the economy of the State of South Carolina, and Anderson County in particular, is reasonably expected to result therefrom.

Prior to issuance of the Bonds, the Authority will, as part of its proceedings:

(a) Require a resolution from the governing body of Anderson County containing the following findings: (1) that the Project will subserve the purposes of the Act; (2) that the Project is anticipated to benefit the general public welfare of Anderson County by providing services, employment, or other public benefits not otherwise provided locally; (3) that the Project will give rise to no pecuniary liability of Anderson County or a charge against its general credit or taxing power; and (4) the amount of bonds required to finance the Project;

(b) Hold a public hearing in Anderson County in connection with such resolution;

(c) Make findings that the terms of the agreements to be entered into in connection with the Project are reasonable and proper as to the adequacy of protection for the public interest provided by such terms;

(d) Negotiate the terms of such agreements to the extent necessary to conclude that neither the Project, the Bonds proposed to be issued by the Authority to defray the cost of financing the Project, nor any documents or agreements entered into by the Authority in connection therewith will constitute or give rise to a pecuniary liability of the Authority or the State of South Carolina or a charge against the general credit or

EXHIBIT

JAN 10 1995

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taxing power of either, and only program funds (as defined in the Act) will be made available to finance the cost of the Project;

STATE BUDGET & CONTROL BOARD

(e) Undertake such investigation as is necessary to conclude that the Borrower is a corporation with established credit and is a responsible party; and

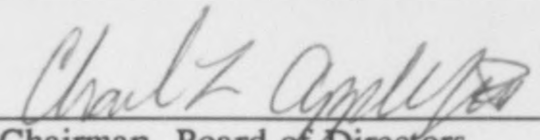
(f) Undertake such investigation as is necessary to conclude that the issuance of the Bonds by the Authority in the final principal amount requested by the Borrower will be required to defray the cost of financing the Project, and such principal amount bears a reasonable relationship to the amount of private funds also committed to the Project.

Upon the basis of the foregoing, the Authority respectfully prays that the State Budget and Control Board (i) accept the filing of this Petition and the documents submitted herewith, (ii) make such investigation as it deems advisable, (iii) approve the issuance of the Bonds by the Authority through private sale pursuant to the Act to defray the cost of financing the Project (including changes in any details of the said financing as finally consummated which do not materially affect the undertaking of the Authority), and (iv) allocate to the Bonds such portion of the state ceiling for 1995 as established by the Tax Reform Act of 1986 and the Internal Revenue Code of 1986, as amended, as is necessary for the issuance of the Bonds.

Respectfully submitted,

SOUTH CAROLINA JOBS-ECONOMIC
DEVELOPMENT AUTHORITY

By:


Chairman, Board of Directors

ATTEST:


Elliott E. Franks, III,
Executive Director

Dated: December 16th, 1994.

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INDUCEMENT AGREEMENT

STATE BUDGET & CONTROL BOARD

THIS AGREEMENT made and entered into by and between the SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY, a public body corporate and politic and an agency of the State of South Carolina (the "Authority"), and VENTURE PACKAGING, INC., an Ohio corporation (the "Borrower").

WITNESSETH:

ARTICLE I

RECITATION OF FACTS

As a means of setting forth the matters of mutual inducement which have resulted in the making and entering into of this Agreement, the following statements of fact are herewith recited:

Section 1.01. The Authority, acting by and through its Board of Directors, is authorized and empowered under and pursuant to the provisions of Title 41, Chapter 43 of the Code of Laws of South Carolina 1976, as amended (the "Act"), to utilize any of its program funds to establish loan programs for the purpose of reducing the cost of capital to business enterprises which meet the eligibility requirements of Section 41-43-150 of the Act and for other purposes described in Section 41-43-160 of the Act and thus provide maximum opportunities for the creation and retention of jobs and improvement of the standard of living of the citizens of the State of South Carolina and in the promotion and advancement of industrial, commercial, agricultural, and recreational development in the State of South Carolina.

Section 1.02. The Authority is further authorized by Section 41-43-110 of the Act to issue revenue bonds, as defined in the Act to include notes, payable by the Authority solely from a revenue producing source and secured by a pledge of said revenues in order to provide funds for any program authorized by the Act.

Section 1.03. The Borrower has applied to the Authority to issue approximately \$9,500,000 of its economic development revenue bonds or notes in order to defray the cost of acquiring by construction or purchase certain land, a building or buildings and other improvements thereon, and certain machinery, apparatus, equipment, office facilities, and furnishings to be installed therein for the manufacture of plastic products (the "Project") to be located in Anderson County, South Carolina, and the Authority wishes to induce the Borrower to acquire and construct the Project within the State of South Carolina.

Section 1.04. (a) The Borrower is a responsible party engaged in the manufacture of plastic products. The Project is located in Anderson County, South Carolina.

(b) The Borrower has demonstrated to the Authority that the assistance of the Authority by the issuance of its economic development revenue bonds or notes will result in the

creation or maintenance of employment for those engaged in construction of the Project, by providing full-time employment for approximately 80 people within 12 months and approximately 100 people within 24 months from Anderson County and adjacent areas when the Project is placed in full operation, with a resulting alleviation of unemployment and a substantial increase in payrolls and other public benefits incident to the conduct of such businesses not otherwise provided locally, and the number of jobs resulting from the assistance authorized herein bears a reasonable relationship to the principal amount of the Bonds (as described below).

(c) The principal amount of the Bonds bears a reasonable relationship to the amount of private funds committed to the Project.

(d) The size and scope of the Project is such that a definite benefit to the economy of the State of South Carolina, and Anderson County in particular, is reasonably expected to result therefrom.

Section 1.05. The Authority has given due consideration to all the proposals and requests of the Borrower and has agreed to endeavor to effect the issuance of the bonds or notes at the time and on the terms and conditions hereafter set forth.

ARTICLE II

UNDERTAKING ON THE PART OF THE AUTHORITY

The Authority agrees as follows:

Section 2.01. The Authority will, subject to such approval by the State Budget and Control Board and the governing body of Anderson County, South Carolina, as may be required by law and subject to the limitations set forth herein, authorize the issuance of not exceeding \$9,500,000 Economic Development Revenue Bonds (or Notes) (Venture Packaging, Inc. Project) (the "Bonds"), at such time as the Borrower may request the Authority to do so.

Section 2.01. The Authority will permit the Borrower to arrange for the sale of the Bonds to defray certain costs of the Project as aforesaid and if successful marketing arrangements can be made, it will adopt such proceedings and enter into such agreements as are necessary for the issuance and securing of the Bonds.

Section 2.03. The proceeds of any sale of the Bonds may be applied to the payment of the costs of the Project as determined under the Act including, without limitations, the expenses incurred in connection with the issuance and sale of the Bonds, the acquisitions of the Project including land, buildings, necessary machinery and equipment, and other items permitted by the Act, and the repayment of any funds, advances, or loans incurred by the Borrower for such purposes.

Section 2.04. Prior to issuing the Bonds, the Authority may enter into a loan agreement with the Borrower and a security agreement with the trustee (to be requested by the Borrower and approved by the Authority and the State Treasurer) or with the purchasers of the Bond, pursuant to which the Bonds will be secured and issued. Such documents shall be substantially in the form used in connection with the issuance of other South Carolina industrial development revenue bonds and shall constitute a lien on the revenues derived from the Borrower with respect to the Project to secure the payment of the Bonds. Provisions, terms, and conditions of the agreements to be entered into in connection with the issuance of the Bonds by the Authority, and the form, details, rate or rates of interest, maturity, redemption provisions, if any, of the Bonds, and other details of any loan agreement relating to the Bonds, shall be prescribed by subsequent resolution of the Authority and shall be reasonable and proper, taking into account such facts as type of program involved, the principal amount of the bonds, and the number and type of jobs involved; the public interest shall be adequately protected by the terms thereof.

Section 2.05. The Authority will perform such other acts and adopt such further proceedings as may be required faithfully to implement its undertaking and to consummate the proposed financing.

Section 2.06. The undertakings of the Authority hereunder are contingent upon the Authority continuing to evaluate the Project as beneficial to the public interest after considering all additional circumstances of which the Authority may hereafter become aware and upon the Borrower providing the Authority with such further evidence as may be satisfactory to the Authority as to compliance with all applicable statutes and regulations.

ARTICLE III

UNDERTAKINGS ON THE PART OF THE BORROWER

Section 3.01. The Borrower agrees that the Authority will have no obligation to find a purchaser of the Bonds and acknowledges that the Authority's approval of this Agreement is preliminary and is conditioned upon the Authority continuing to evaluate the Project as beneficial to the public interest after considering all additional circumstances of which the Authority may hereafter become aware.

Section 3.02. The Borrower further agrees, if the plan proceeds as contemplated, as follows:

(a) to acquire the Project;

(b) to enter into a loan agreement with the Authority, under the terms of which the Borrower will obligate itself to pay to the Authority sums sufficient to pay the principal, interest and premium, if any, on the Bonds, as and when the same become due and payable;

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STATE BUDGET & CONTROL BOARD

(c) to hold the Authority harmless from all pecuniary liability and to reimburse it for all expenses to which it might be put in the fulfillment of its obligations under this Agreement;

(d) to perform such further acts and adopt such further proceedings as may be required faithfully to implement its undertakings and to consummate the proposed financing; and

(e) to covenant and agree in the loan agreement referred to above to install in the buildings which are to become a part of the Project all necessary equipment and machinery and initially to operate the Project in the manner described in Section 1.03 hereof.

ARTICLE IV

GENERAL PROVISION

Section 4.01. All commitments of the Authority under Article II hereof are subject to all of the provisions of the Act and regulations of the Authority pursuant thereto and the conditions that nothing contained in this Agreement shall constitute nor give rise to a pecuniary liability of the Authority or a charge against its general credit.

Section 4.02. The parties hereto agree that the Borrower may proceed with the Project including the acquisition of land, the construction of a building or buildings, and the acquisition and installation of the equipment and machinery, prior to the issuance of Bonds.

Section 4.03. All commitments of the Authority and the Borrower hereunder are subject to the condition that the Authority and the Borrower do agree on mutually acceptable terms and conditions of all documents, the execution and delivery of which are contemplated by the provisions hereof.

Section 4.04. The parties understand that the Borrower or the Authority may choose not to finance the Project as herein provided, in which event this Agreement shall become void.

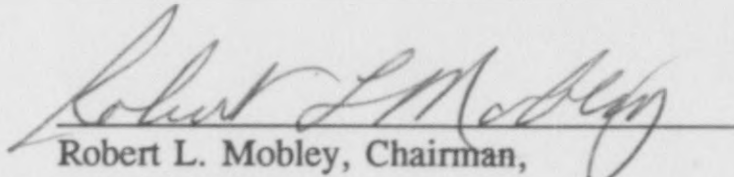
Section 4.05. This Agreement may be assigned by the Borrower to any of its corporate affiliates, any subsidiary corporation organized under the laws of any state of the United States to be formed, any partner or shareholder in the Borrower, or to any company in which the Borrower or one or more of its partners or shareholders has an interest (any of the foregoing being referred to hereinafter as a "Related Company"), or any person or company which is willing to lease the Project to the Borrower or any Related Company.

Section 4.06. It is the intention of the parties hereto that this Agreement shall constitute official intent on the part of the Authority within the meaning of the applicable regulations of the Treasury Department relating to the issuance of tax-exempt bonds.

Section 4.07. The Borrower reserves the right to issue taxable bonds under the authority of this Agreement.

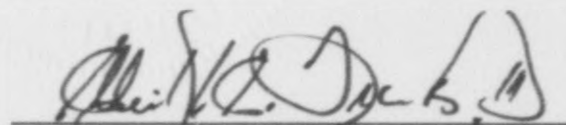
IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Agreement on the respective dates indicated below.

SOUTH CAROLINA JOBS-ECONOMIC
DEVELOPMENT AUTHORITY


Robert L. Mobley, Chairman,
Board of Directors

(SEAL)

ATTEST:


Elliott E. Franks, III,
Executive Director

Dated: December 14, 1994

EXHIBIT

JAN 10 1995

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STATE BUDGET & CONTROL BOARD
VENTURE PACKAGING, INC.

By: *S/*
Its: _____

(SEAL)

ATTEST:

By: _____

Its: _____

Dated: December 14, 1994

GRVL:28834

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004047

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STATE BUDGET & CONTROL BOARD

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT BY AND BETWEEN THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY AND VENTURE PACKAGING, INC., WHEREBY UNDER CERTAIN CONDITIONS THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY WILL ISSUE APPROXIMATELY \$9,500,000 OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS OR NOTES PURSUANT TO THE PROVISIONS OF TITLE 41, CHAPTER 43, OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, AND AUTHORIZING THE APPLICATION UPON CERTAIN CONDITIONS TO THE STATE BUDGET AND CONTROL BOARD OF SOUTH CAROLINA FOR APPROVAL OF THE ISSUANCE OF SUCH BONDS.

WHEREAS, the South Carolina Jobs-Economic Development Authority (the "Authority"), acting by and through its Board of Directors is authorized and empowered under and pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as amended (the "Act"), to utilize any of its program funds to establish loan programs for the purpose of reducing the cost of capital to business enterprises which meet the eligibility requirements of Section 41-43-150 of the Act and for other purposes described in Section 41-43-160 of the Act and thus provide maximum opportunities for the creation and retention of jobs and improvement of the standard of living of the citizens of the State of South Carolina and in the promotion and advancement of industrial, commercial, agricultural, and recreational development in the State of South Carolina; and

WHEREAS, the Authority is further authorized by Section 41-43-110 of the Act to issue revenue bonds, as defined in the Act to include notes, payable by the Authority solely from a revenue producing source and secured by a pledge of said revenues in order to provide funds for any program authorized by the Act; and

WHEREAS, Venture Packaging, Inc., an Ohio corporation (the "Borrower"), has applied to the Authority to issue approximately \$9,500,000 of its economic development revenue bonds or notes in order to defray the cost of acquiring by construction or purchase certain land, a building or buildings and other improvements thereon, and certain machinery, apparatus, equipment, office facilities and furnishings to be installed therein for the manufacture of plastic products, constituting an industrial facility (the "Project") to be located in Anderson County, South Carolina, and the Authority wishes to induce the Borrower to acquire and construct the Project within the State of South Carolina; and

WHEREAS, it is in the public interest, for the public benefit and in furtherance of the public purposes of the Authority that its Board of Directors provide preliminary approval of the issuance of economic development revenue bonds for the aforesaid purposes; and

WHEREAS, it is deemed advisable by the Authority to file with the State Budget and Control Board of South Carolina, in compliance with Section 41-43-110 of the Act, the Petition of the Authority requesting approval by the State Budget and Control Board for the issuance of the notes or bonds at public or private sale upon receipt by the Authority from the Borrower of evidence satisfactory to the Authority of the economic feasibility of the Project;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

Section 1. It is hereby found, determined, and declared as follows:

(a) The Borrower is a responsible party engaged in the manufacture of plastic products. The Project is to be located in Anderson County, South Carolina.

(b) The Borrower has demonstrated to the Authority that the assistance of the Authority by the issuance of its economic development revenue bonds or notes will result in the creation or maintenance of employment for those engaged in construction of the Project, by providing full-time employment for approximately 80 people within 12 months and approximately 100 people within 24 months when the Project is placed in full operation, with a resulting alleviation of unemployment and a substantial increase in payrolls and other public benefits incident to the conduct of such businesses not otherwise provided locally, and the number of jobs resulting from the assistance authorized herein bears a reasonable relationship to the principal amount of the Bonds (as described below).

(c) The principal amount of the Bonds bears a reasonable relationship to the amount of private funds committed to the Project.

(d) The size and scope of the Project is such that a definite benefit to the economy of the State of South Carolina, and Anderson County in particular, is reasonably expected to result therefrom.

Section 2. Subject to such approval by the State Budget and Control Board and the governing board of Anderson County, South Carolina, as required by law, the Board of Directors of the Authority preliminarily approves the issuance and sale of economic development revenue bonds or notes of the Authority pursuant to Section 41-43-110 of the Act in a principal amount of not exceeding \$9,500,000 (the "Bonds") for the purpose of providing financing to the Borrower for the acquisition and construction of the Project.

Section 3. The issuance and sale of the Bonds shall be upon such terms and conditions as may be mutually agreed upon by the Authority, the Borrower, and the purchaser of the

Bonds, and shall be subject to completion of proceedings for issuance, sale, and delivery of the Bonds satisfactory to the Authority. The provisions, terms, and conditions of the agreements to be entered into in connection with the issuance of the Bonds by the Authority, and the form, details, rate or rates of interest, maturity, and redemption provisions, if any, of the Bonds, other details of any loan agreement relating to the Bonds, and findings required by the Act shall be prescribed by subsequent resolution of the Authority and shall be reasonable and proper, taking into account such factors as the type of program involved, the principal amount of the Bonds, and the number and type of program involved, the principal amount of the Bonds, and the number and type of jobs involved; the public interest shall be adequately protected by the terms thereof.

Section 4. The Chairman of the Board of Directors of the Authority is hereby authorized and directed to execute the Inducement Agreement attached hereto in the name and on behalf of the Authority, and the Executive Director of the Authority is hereby authorized and directed to affix thereto the seal of the Authority and to attest the same, and the Executive Director of the Authority is hereby further authorized and directed to deliver said executed Inducement Agreement to the Borrower.

Section 5. It is the intention of the Authority that this resolution shall constitute an official action on the part of the Authority within the meaning of the applicable regulations of the Treasury Department relating to the issuance of tax-exempt revenue bonds.

Section 6. The Bonds shall never constitute an indebtedness of the Authority or the State of South Carolina (the "State") within the meaning of any state constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the Authority or the State or a charge against the general credit of the Authority or the State or the taxing powers of the State.

Section 7. Upon receipt by the Authority from the Borrower of evidence, which shall be satisfactory to the Authority, of the economic feasibility of the Project, there shall be and is hereby authorized and directed the submission on behalf of the Authority, of a Petition requesting approval by the State Budget and Control Board of South Carolina pursuant to the provisions of Section 41-43-110 of the Act of the issuance of the Bonds through public or private sale, said Petition, which constitutes and is hereby made a part of this authorizing resolution, to be in form acceptable to the State Budget and Control Board.

Section 8. The Chairman of the Board of Directors of the Authority shall be and is hereby authorized and directed to execute said Petition in the name and on behalf of the Authority, and the Executive Director of the Authority shall be and is hereby authorized and directed to affix the seal of the Authority to said Petition and to attest the same and thereafter, upon the conditions set forth hereinabove, to submit an executed copy of this resolution to the State Budget and Control Board of South Carolina.

EXHIBIT

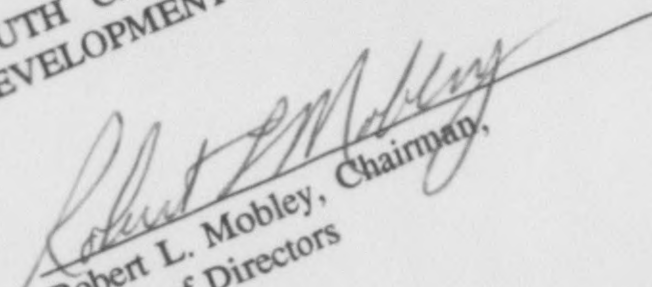
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JAN 10 1995

Section 9. All orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed, and this resolution shall take effect and be in full force from and after its passage and approval.

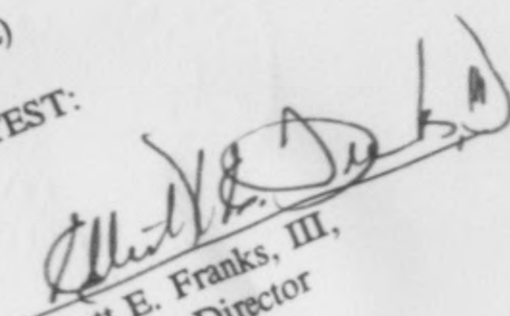
Passed and approved December 14, 1994.

SOUTH CAROLINA JOBS-ECONOMIC
DEVELOPMENT AUTHORITY


Robert L. Mobley, Chairman,
Board of Directors

(SEAL)

ATTEST:


Elliott E. Franks, III,
Executive Director

GRVL:28833

NON-ADON

EXHIBIT

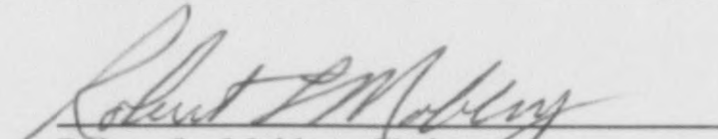
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Section 9. All orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed, and this resolution shall take effect and be in full force from and after its passage and approval.

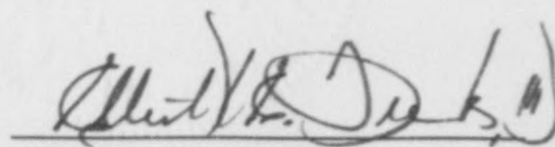
Passed and approved December 14, 1994.

SOUTH CAROLINA JOBS-ECONOMIC
DEVELOPMENT AUTHORITY


Robert L. Mobley, Chairman,
Board of Directors

(SEAL)

ATTEST:


Elliott E. Franks, III,
Executive Director

GRVL:28833

004051

EXHIBIT

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

[Form of Opinion of Bond Counsel]

_____, 1995

South Carolina Jobs-Economic
Development Authority
Columbia, South Carolina

Re: \$9,500,000 South Carolina Jobs-Economic Development Authority, Economic
Development Revenue Bonds (Venture Packaging, Inc. Project) Series 1995

Gentlemen:

We have served as Bond Counsel in connection with the issuance by the South Carolina Jobs-Economic Development Authority (the "Issuer") of its \$9,500,000 Economic Development Revenue Bonds (Venture Packaging, Inc. Project) Series 1995 (the "Bonds"). The Bonds have been issued pursuant to the terms of an Indenture of Trust dated as of February 1, 1995 (the "Indenture"), between the Issuer and _____, as trustee (the "Trustee"). The proceeds of the Bonds will be used to defray the cost of a certain project pursuant to a Loan Agreement dated as of February 1, 1995 (the "Loan Agreement"), by and between the Issuer and Venture Packaging, Inc. (the "Borrower"). Pursuant to the Loan Agreement, the Borrower is obligated to make payments to or on behalf of the Issuer sufficient to pay the principal and purchase price of, premium, if any, and interest on the Bonds. Unless otherwise indicated, all capitalized terms as used in this opinion shall have the meanings set forth in Article I of the Indenture.

In connection with our opinion, we have examined the Constitution and laws of the State, particularly Title 41, Chapter 43, Code of Laws of South Carolina, 1976, as amended (the "Act"), the transcript of the proceedings with respect to the Bonds, certified copies of documents relating to the organization of the Issuer, and certified copies of proceedings and other papers relating to the issuance and sale by the Issuer of the Bonds, including the resolution adopted by the Issuer on _____, 1995, authorizing the issuance of the Bonds.

The Bonds will be issued as fully registered bonds and will bear a dated date of February ___, 1995. The Bonds are payable by the Issuer solely from the funds provided pursuant to the Indenture. Under the terms of the Indenture and the Loan Agreement, the Borrower will provide initially a Letter of Credit to secure payment of the principal and purchase price of and interest on the Bonds,

GRVL:29861

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issued on behalf of the Borrower. _____ (the "Bank"), has, subject to the termination dates specified therein, issued its irrevocable direct-pay Letter of Credit with respect to the Bonds. The Borrower has also granted to the Bank a security interest in certain real and personal property pursuant to a Mortgage and Security Agreement dated as of February 1, 1995 (the "Mortgage"), made by the Borrower, as Mortgagor, to the Bank, as Mortgagee. We refer you to the Bonds, the Loan Agreement, and the Indenture for a further description of the Bonds, the purposes for which the Bonds are issued and the security therefor.

Reference is made to an opinion of even date of _____, counsel to the Borrower, with respect, among other matters, to the power of the Borrower to enter into and perform the Loan Agreement and the authorization, execution and delivery of the Loan Agreement by the Borrower and with respect to the Loan Agreement being binding and enforceable upon the Borrower.

With respect to the due authorization, execution and delivery of the Letter of Credit by the Bank, the validity thereof and enforceability thereof against the Bank, we refer you to the opinion of _____ of even date herewith addressed to you.

As to questions of fact material to our opinion, we have relied upon representations of and compliance with covenants by the Borrower and the Issuer contained in the Loan Agreement, the Indenture, certificates of public officials furnished to us, and certificates of representatives of the Borrower, the Trustee, the Issuer, the Bank, and other parties, including, without limitation, representations, covenants and certifications as to certain prior tax-exempt bond issues, the use of the proceeds of the Bonds, certain capital expenditures of the Borrower and others, compliance with the arbitrage reporting and rebate requirements, the average reasonably expected economic life of the property being financed with the proceeds of the Bonds, and other factual matters which are relevant to the opinion expressed in paragraph 7, in each case without undertaking any independent verification. We have assumed that all signatures on documents, certificates and instruments examined by us are genuine, all documents, certificates and instruments submitted to us as originals are authentic and all documents, certificates and instruments submitted to us as copies conform to the originals. In addition, we have assumed that all documents, certificates and instruments relating to this financing have been duly authorized, executed and delivered by all parties thereto other than the Issuer, and we have further assumed the due organization, existence and powers of such other parties other than the Issuer and the Borrower.

EXHIBIT

JAN 10 1995

6

South Carolina Jobs-Economic
Development Authority
February __, 1995
Page 3

STATE BUDGET & CONTROL BOARD

Based upon the foregoing, we are of the opinion that, under existing law:

1. The Issuer is a validly existing public body corporate and politic and an agency of the State of South Carolina, duly created by the Act, and is vested with the rights and powers conferred by the Act.

2. The Issuer has all requisite authority and power under the Act, particularly Section 41-43-110 thereof, to issue the Bonds and to enter into and perform its obligations under the Indenture and the Loan Agreement and to apply the proceeds from the issuance of the Bonds as contemplated by the Loan Agreement.

3. The Bonds have been duly authorized and issued in accordance with the Act and the Indenture and, subject to paragraph 6 below, constitute valid, binding and enforceable limited obligations of the Issuer, payable by the Issuer solely from the revenues and receipts pledged to such purpose under the Indenture and from amounts drawn under the Letter of Credit. The Bonds do not create or constitute a pledge of the faith and credit or the taxing power of the Issuer or the State. Neither the Issuer nor the State is obligated to make any payment with respect to the Bonds except from the special funds provided therefor and the property pledged thereto under the Indenture.

4. The Indenture and the Loan Agreement have been duly authorized, executed and delivered by the Issuer, and, subject to paragraph 6 below, constitute valid and binding agreements of the Issuer enforceable against the Issuer in accordance with their respective terms.

5. The Issuer's right, title and interest in the Loan Agreement (except the Issuer's right to indemnity, notices and payment of its expenses) have been assigned to the Trustee, and, subject to paragraph 6 below, such assignment constitutes a valid and binding assignment of the Issuer, enforceable against the Issuer in accordance with its terms.

6. It is to be understood that the rights of the Bondholders and the obligations of the parties under the Bonds, the Indenture and the Loan Agreement are subject to the exercise of judicial discretion in accordance with general principles of equity, and to the provisions of applicable bankruptcy, insolvency, reorganization, moratorium and similar laws, now or hereafter in effect, relating to or affecting the enforcement of creditors' rights. Certain indemnity provisions may be unenforceable pursuant to court decisions invalidating such indemnity agreements on grounds of public policy.

EXHIBIT

JAN 10 1995

6

South Carolina Jobs-Economic
Development Authority
February __, 1995
Page 4

STATE BUDGET & CONTROL BOARD

7. Under existing law, the interest on the Bonds is excludable from gross income for federal income tax purposes, except that under Section 147(a) of the Internal Revenue Code of 1986, as amended (the "Code"), such federal exclusion from gross income shall not apply with respect to any particular Bond for any period during which held by a "substantial user" of the Project or a "related person" within the meaning of such Section. Also, such exclusion from gross income of interest for federal income tax purposes may become inapplicable with respect to all or part of the Bonds, in certain cases retroactive to the date of issuance, (i) in the event of the occurrence of certain contingencies relating to prior issues and capital expenditures by the Borrower or any principal user of the Project or any persons related to the Borrower or any principal user of the Project provided for in Section 144(a) of the Code, or (ii) in the event the Borrower or the Issuer fails to comply with certain covenants in the Indenture and Loan Agreement with respect to maintenance of the exclusion from gross income for federal income tax purposes for the interest on the Bonds, including use, investment and expenditure of Bond proceeds and use of the facilities financed with Bond proceeds. Interest on the Bonds must be included as an item of tax preference in the computation of the alternative minimum tax on corporations and on individuals imposed by Section 55 of the Code. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

Ownership of the Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits and taxpayers who may be deemed to have incurred (or continued) indebtedness to purchase or carry tax-exempt obligations.

7. Under present law, interest on the Bonds is exempt from all income taxation by the State, except estate and certain transfer fees. Certain taxes, however, specifically including the tax imposed on banks by Section 12-11-20, Code of Laws of South Carolina, 1976, as amended, are enforced as franchise taxes on some measure of assets or income, which may include the Bonds or income therefrom.

8. The Bonds constitute exempt securities under Section 3(a)(2) of the Securities Act of 1933, as amended to this date (the "Securities Act"), and under Section 3(a) of the Securities Exchange Act of 1934, as amended to this date, and the offer, sale and delivery of the Bonds do not require registration of the Bonds under the Securities Act, nor is qualification of the Indenture required by the Trust Indenture Act of 1939, as amended to this date.

GRVL:29861

004055

EXHIBIT

JAN 10 1995

6

South Carolina Jobs-Economic
Development Authority
February __, 1995
Page 5

STATE BUDGET & CONTROL BOARD

It is to be understood that the rights of the Bondholders and the obligations of the parties under the Bonds, the Indenture and the Loan Agreement are subject to the exercise of judicial discretion in accordance with general principles of equity, the valid exercise of the constitutional powers of the United States and the police powers of the State and to the provisions of applicable bankruptcy, insolvency, reorganization, moratorium and similar laws, now or hereafter in effect, relating to or affecting the enforcement of creditors' rights. Certain indemnity provisions may be unenforceable pursuant to court decisions invalidating such indemnity agreements on grounds of public policy.

We have been retained solely for the purpose of examining into the validity and legality of the Bonds and of rendering certain specific opinions hereinbefore stated and for no other purpose. We have not verified the accuracy, completeness or fairness of any representations or information concerning the business or financial condition of the Borrower or any other party made, prepared or issued by any party, or on behalf of any party, in connection with the sale of the Bonds. Accordingly, we express no opinion on the completeness, fairness or adequacy of any such representations or information.

Very truly yours,

McNAIR & SANFORD, P.A.

GRVL:29861

004056

NON-PROFIT

EXHIBIT

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

JAN 10 1995

6

STATE BUDGET & CONTROL BOARD

CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL



P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

December 28, 1994

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Alice Broadwater; Wayne Rush
FROM: Donna Kaminer Williams *DKW*
SUBJECT: Review of Revenue Bond Proposal

Enclosed is the following proposal for the issuance of bonds which has been submitted for the Tuesday, January 10, 1995, Budget and Control Board agenda:

Jobs-Economic Development Authority
Not Exceeding \$9,500,000 Economic Development Revenue Bonds
Venture Packaging, Inc. project

For this proposal to be included on the January 10 agenda, I must have the written results of your review before 9:30 a.m. on Thursday, January 5, 1995.

DKW/laf
Enclosure

004057

EXHIBIT

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

JAN 10 1995

6

STATE BUDGET & CONTROL BOARD

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

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995

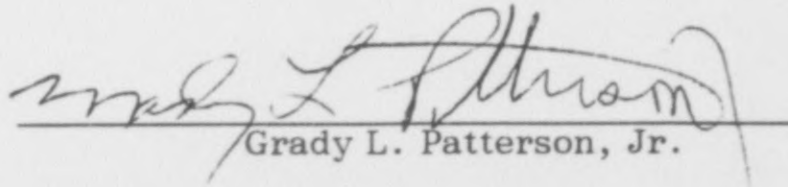
C E R T I F I C A T E
STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS
(UNDER TAX REFORM ACT OF 1986)
TENTATIVE ALLOCATION, CALENDAR YEAR 1995

TO: Jobs-Economic Development Authority
\$9,500,000 Economic Development Revenue Bonds
Venture Packaging, Inc. Project

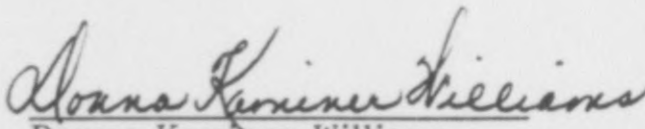
C/O: Ms. Kathleen Crum McKinney
McNair & Sanford, P.A.
Suite 601, NationsBank Plaza
Greenville, SC 29601

In accord with Section 1-11-500 et seq. of the South Carolina Code of Laws, 1976, as amended, the State Budget and Control Board has made a tentative allocation of the State Ceiling established in the Tax Reform Act of 1986 in the amount indicated to the referenced bonds/notes and project. This allocation is valid for calendar year 1995 only. It will expire on **April 10, 1995**, which is ninety (90) consecutive calendar days from the date the allocation was approved by the Board, if the bonds/notes for which the allocation has been approved have not been issued prior to that time.

Before this tentative allocation becomes final, Code Section 1-11-550 requires that the exact amount of the bonds/notes being issued be certified to the Board Secretary by the issuing authority **before** the issue is made. In response to that issue amount certificate, the Secretary will issue a certificate which makes the ceiling allocation final.


Grady L. Patterson, Jr.

Attest:


Donna Kaminer Williams
Secretary to the Board

004058

JAN 10 1985

A RESOLUTION APPROVING THE ISSUANCE BY THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY THROUGH PRIVATE SALE OF NOT EXCEEDING \$9,500,000 ECONOMIC DEVELOPMENT REVENUE BONDS (VENTURE PACKAGING, INC. PROJECT), PURSUANT TO THE PROVISIONS OF SECTION 41-43-110 OF SOUTH CAROLINA CODE ANNOTATED, TITLE 41, CHAPTER 43 (1976), AS AMENDED.

WHEREAS, the South Carolina Jobs-Economic Development Authority (the "Authority") has heretofore under and pursuant to the provisions of Section 41-43-110 of South Carolina Code Annotated, Title 41, Chapter 43 (1976), as amended (the "Act"), requested approval by the State Budget and Control Board of the issuance by the Authority pursuant to the Act of its Economic Development Revenue Bonds (Venture Packaging, Inc. Project), in the aggregate principal amount of not exceeding \$9,500,000 (the "Bonds"); and

WHEREAS, the Issuer proposes to issue the Bonds for the purpose of defraying the cost of acquiring, by construction and purchase, a building or buildings, other improvements, and certain machinery, apparatus, equipment, office facilities and furnishings (the "Project") to be used for the purpose of manufacturing plastic parts; and

WHEREAS, the Project is to be made available to Venture Packaging, Inc. (the "Company") upon terms which require the Company to make payments to or for the account of the Issuer in amounts sufficient to pay the principal and interest on the Bonds; and

NOW, THEREFORE, BE IT RESOLVED, by the State Budget and Control Board of the State of South Carolina, as follows:

Section 1. It is hereby found, determined and declared by the Board that: the Petition filed by the Authority contains all matters required by law and the rules of this Board to be set forth therein, and that in consequence thereof the jurisdiction of this Board has been properly invoked under and pursuant to Section 41-43-110 of the Act.

Section 2. In consequence of the foregoing, the proposal of the Authority to defray the cost of acquiring the Project, to make the Project available to the Company, to finance the cost thereof and expenses incidental thereto by the execution and delivery of the Bonds, secured by an assignment of the revenues to be derived from the Loan Agreement, be and the same is hereby in all respects approved. This approval shall not be affected by any changes in the details of the proposal of the Issuer so long as such changes do not impose a pecuniary liability upon the Issuer or its general credit or taxing power, are approved by the Board of Directors of the Authority and the Company, and do not make inaccurate, except as to dates and amounts, the summaries of the Loan Agreement and the Indenture and the description of the Project.

Section 3. This Resolution shall take effect immediately.

004059 (c)

EXHIBIT

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

JAN 10 1995

6

STATE BUDGET & CONTROL BOARD

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

P.O. BOX 13444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995

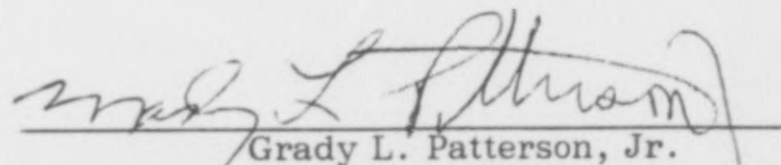
C E R T I F I C A T E
STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS
(UNDER TAX REFORM ACT OF 1986)
TENTATIVE ALLOCATION, CALENDAR YEAR 1995

TO: Jobs-Economic Development Authority
\$9,500,000 Economic Development Revenue Bonds
Venture Packaging, Inc. Project

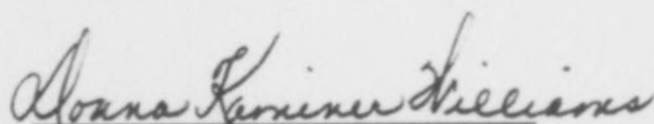
C/O: Ms. Kathleen Crum McKinney
McNair & Sanford, P.A.
Suite 601, NationsBank Plaza
Greenville, SC 29601

In accord with Section 1-11-500 et seq. of the South Carolina Code of Laws, 1976, as amended, the State Budget and Control Board has made a tentative allocation of the State Ceiling established in the Tax Reform Act of 1986 in the amount indicated to the referenced bonds/notes and project. This allocation is valid for calendar year 1995 only. It will expire on **April 10, 1995**, which is ninety (90) consecutive calendar days from the date the allocation was approved by the Board, if the bonds/notes for which the allocation has been approved have not been issued prior to that time.

Before this tentative allocation becomes final, Code Section 1-11-550 requires that the exact amount of the bonds/notes being issued be certified to the Board Secretary by the issuing authority **before** the issue is made. In response to that issue amount certificate, the Secretary will issue a certificate which makes the ceiling allocation final.


Grady L. Patterson, Jr.

Attest:


Donna Kaminer Williams
Secretary to the Board

004C60

McNAIR & SANFORD, P.A.
ATTORNEYS AND COUNSELORS AT LAW

NATIONSBANK PLAZA/SUITE 601
7 NORTH LAURENS STREET
GREENVILLE, SOUTH CAROLINA 29601

TELEPHONE 803/271-4940
FACSIMILE 803/271-4015

CHARLESTON OFFICE
140 EAST BAY STREET
POST OFFICE BOX 1431
CHARLESTON, SC 29402
TELEPHONE 803/723-7831
FACSIMILE 803/722-3227

COLUMBIA OFFICE
NATIONSBANK TOWER
1301 GERVAIS STREET
POST OFFICE BOX 11300
COLUMBIA, SC 29211
TELEPHONE 803/799-9800
FACSIMILE 803/799-9804

GEORGETOWN OFFICE
121 SCREVEN STREET
POST OFFICE DRAWER 415
GEORGETOWN, SC 29442
TELEPHONE 803/546-6102
FACSIMILE 803/546-0096

RALEIGH OFFICE
RALEIGH FEDERAL BUILDING
ONE EXCHANGE PLAZA
SUITE 810
POST OFFICE BOX 2447
RALEIGH, NC 27602
TELEPHONE 919/890-4190
FACSIMILE 919/890-4190

SPARTANBURG OFFICE
SPARTAN CENTRE/SUITE 308
101 WEST ST. JOHN STREET
POST OFFICE BOX 5137
SPARTANBURG, SC 29304
TELEPHONE 803/542-1300
FACSIMILE 803/522-0705

WASHINGTON OFFICE
MADISON OFFICE BUILDING
SUITE 400
1155 FIFTEENTH STREET NORTHWEST
WASHINGTON, DC 20005
TELEPHONE 202/669-3000
FACSIMILE 202/669-5783

April 18, 1995

Ms. Donna Kaminer Williams
Assistant Executive Director
State Budget and Control Board
612 Wade Hampton Office Building
Columbia, South Carolina 29211

VIA FAX 803-734-2117

Re: \$8,325,000 South Carolina Jobs-Economic Development Authority, Adjustable
Rate Economic Development Revenue Bonds (Venture Packaging, Inc. Project)
Series 1995

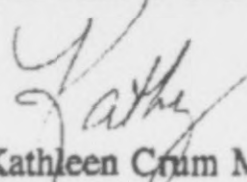
Dear Donna:

In accordance with the regulations of the State Budget and Control Board, I am submitting on behalf of South Carolina Jobs-Economic Development Authority and Venture Packaging, Inc. IRS Form 8038. Please confirm the allocation of \$8,325,000 of the State volume to the above-captioned issue. This issue is scheduled to close April 20, 1995. Please fax the final allocation to us as soon as possible.

Thank you for your assistance.

Sincerely,

McNAIR & SANFORD, P.A.


Kathleen Crum McKinney

KCM/dcp
Enclosure

GRVL:36031

004061

0400 - 1000

Information Return for Tax-Exempt
Private Activity Bond Issues
(Under Internal Revenue Code section 149(e))

OMB No. 1545-0720

▶ See separate instructions.

Part I Reporting Authority

If Amended Return, check here ▶ ☐

1 Issuer's name South Carolina Jobs-Economic Development Authority		2 Issuer's employer identification number 57 1 6000286
3 Number and street (or P.O. Box if mail is not delivered to street address) 1201 Main Street, Suite 1750	Room/suite	4 Report number PA 1995 - 09
5 City or town, state, and ZIP code Columbia, South Carolina 29201		6 Date of issue April 20, 1995
7 Name of issue Adjustable Rate Economic Development Revenue Bonds, Series 1995 (Venture Packaging, Inc. Project)		8 CUSIP number 837034AZ0

Part II Type of Issue (check applicable box(es) and enter the issue price for each)

Issue Price

9 Exempt facility bond:		
a <input type="checkbox"/> Airport (sections 142(a)(1) and 142(c))	9a	
b <input type="checkbox"/> Docks and wharves (sections 142(a)(2) and 142(c))	9b	
c <input type="checkbox"/> Mass commuting facilities (sections 142(a)(3) and 142(c))	9c	
d <input type="checkbox"/> Water furnishing facilities (sections 142(a)(4) and 142(e))	9d	
e <input type="checkbox"/> Sewage facilities (section 142(a)(5))	9e	
f <input type="checkbox"/> Solid waste disposal facilities (section 142(a)(6))	9f	
g <input type="checkbox"/> Qualified residential rental projects (sections 142(a)(7) and 14(d)), as follows:	9g	
Meeting 20-50 test (section 142(d)(1)(A))		
Meeting 40-60 test (section 142(d)(1)(B))		
Meeting 25-60 test (NYC only) (section 142(d)(6))		
Has an election been made for deep rent skewing (section 142(d)(4)(B))?		
		<input type="checkbox"/> Yes <input type="checkbox"/> No
h <input type="checkbox"/> Facilities for the local furnishing of electric energy or gas (sections 142(a)(8) and 142(f))	9h	
i <input type="checkbox"/> Local district heating or cooling facilities (sections 142(a)(9) and 142(g))	9i	
j <input type="checkbox"/> Qualified hazardous waste facilities (sections 142(a)(10) and 142(h))	9j	
k <input type="checkbox"/> High-speed intercity rail facilities (sections 142(a)(11), 142(c), and 142(i))	9k	
Check box if the owner elected not to claim depreciation or any tax credit (see instructions) ▶ <input type="checkbox"/>		
l <input type="checkbox"/> Environmental enhancements of hydroelectric generating facilities (sections 142(a)(12) and 142(j))	9l	
m <input type="checkbox"/> Facilities allowed under a transitional rule of the Tax Reform Act of 1986 (see instructions)	9m	
Facility type		
1986 Act section		
10 <input type="checkbox"/> Qualified mortgage bond (section 143(a)) (see instructions)	10	
If you elect to rebate arbitrage profits to the United States, check box ▶ <input type="checkbox"/>		
11 <input type="checkbox"/> Qualified veterans' mortgage bond (section 143(b))	11	
If you elect to rebate arbitrage profits to the United States, check box ▶ <input type="checkbox"/>		
12 <input checked="" type="checkbox"/> Qualified small issue bond (section 144(a)) (see instructions)	12	8,325,000
For \$10 million small issue exemption, check box ▶ <input checked="" type="checkbox"/>		
13 <input type="checkbox"/> Qualified student loan bond (section 144(b))	13	
14 <input type="checkbox"/> Qualified redevelopment bond (section 144(c))	14	
15 <input type="checkbox"/> Qualified hospital bond (section 145(c)) (attach schedule-see instructions)	15	
16 <input type="checkbox"/> Qualified 501(c)(3) bond other than a qualified hospital bond (attach schedule-see instructions)	16	
17 <input type="checkbox"/> Nongovernmental output property bond (treated as private activity bond) (section 141(d))	17	
18 <input type="checkbox"/> Other. Describe (see instructions) ▶	18	

Part III Description of Bonds

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19 Final maturity . . .	4-1-2016	VR %	\$ 8,325,000	\$ 8,325,000			
20 Entire issue . . .			\$ 8,325,000	\$ 8,325,000	21 years	VR %	VR %

Part IV Uses of Original Proceeds of Issue (including underwriters' discount)				Amount
21	Proceeds used for accrued interest	21		0
22	Issue price of entire issue (enter amount from line 20, column(c))	22		8,325,000
23	Proceeds used for bond issuance costs (including underwriters' discount)	23	120,000	
24	Proceeds used for credit enhancement	24	0	
25	Proceeds allocated to reasonably required reserve or replacement fund	25	0	
26	Proceeds used to refund prior issues (complete Part VI)	26	0	
27	Total (add lines 23 through 26)	27		120,000
28	Nonrefunding proceeds of the issue (subtract line 27 from line 22 and enter amount here)	28		8,205,000

Part V Description of Property Financed by Nonrefunding Proceeds (Do not complete for qualified student loan bonds, qualified mortgage bonds, or qualified veterans' mortgage bonds.)				Amount
29	Type of Property Financed by Nonrefunding Proceeds:			
a	Land	29a		0
b	Buildings and structures	29b		3,592,654
c	Equipment with recovery period of more than 5 years	29c		4,612,346
d	Equipment with recovery period of 5 years or less	29d		0
e	Other (describe)	29e		0
30	Standard industrial classification (SIC) of the projects financed by nonrefunding proceeds.			
	SIC Code	Amount of nonrefunding proceeds	SIC Code	Amount of nonrefunding proceeds
a	3089	\$ 8,205,000	c	\$
b		\$	d	\$

Part VI Description of Refunded Bonds (Complete this part only for refunding bonds.)			
31	Enter the remaining weighted average maturity of the bonds to be refunded	►	years
32	Enter the last date on which the refunded bonds will be called	►	
33	Enter the date(s) the refunded bonds were issued ►		

Part VII Miscellaneous			
34	Name of governmental unit(s) approving issue (see instructions) ►	South Carolina Jobs-Economic Development Authority, State Budget & Control Board, and Anderson County, SC	
35	Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III)	►	
36	If you have elected to pay a penalty in lieu of rebate, check box	►	<input type="checkbox"/>

Part VIII Volume Cap				Amount
37	Amount of volume cap allocated to the issuer. Attach copy of state certification	37		
38	Amount of issue subject to the unified state volume cap	38		8,325,000
39	Amount of issue not subject to the unified state volume cap or other volume limitations:			
a	Of bonds for governmentally owned solid waste facilities, airports, docks, wharves, environmental enhancements of hydroelectric generating facilities, or high-speed intercity rail facilities	39a		
b	Under a carryforward election. Attach a copy of Form 8328 to this return	39b		
c	Under transitional rules of the Tax Reform Act of 1986	39c		
	Enter the Act section of the applicable transitional rule	►		
d	Under the exception for current refunding (section 1313(a) of the Tax Reform Act of 1986).	39d		
40	Amount of issue of qualified 501(c)(3) bonds:			
a	Qualified hospital bonds	40a		
b	Qualified nonhospital bonds	40b		
c	Outstanding tax-exempt nonhospital bonds	40c		
41a	Amount of issue of qualified veterans' mortgage bonds	41a		
b	Enter the state limit on qualified veterans' mortgage bonds	41b		

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of officer

Charles L. Appleby, III

Name of above officer (type or print)

April 20, 1995

Date

Chairman

Title of officer (type or print)

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



DAVID M. BEASLEY, CHAIRMAN
GOVERNOR

RICHARD A. ECKSTROM
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

HENRY E. BROWN, JR.
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

April 18, 1995

C E R T I F I C A T E
STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS
(UNDER TAX REFORM ACT OF 1986)
FINAL ALLOCATION, CALENDAR YEAR 1995

TO: Jobs-Economic Development Authority
Employer ID #57-6000286
1201 Main Street, Suite 1750
Columbia, SC 29201

c/o Kathleen Crum McKinney, Esq.
McNair & Sanford, P.A.
NationsBank Plaza, Suite 601
Greenville, SC 29601

RE: Issue of \$8,325,000 Jobs-Economic Development Authority
Adjustable Rate Economic Development Revenue Bonds, Series 1995
(Venture Packaging, Inc. Project)
Issue Date Projected By Issuing Authority: April 20, 1995
CUSIP Number: 837034AZ0
Allocation Expiration Date: May 11, 1995
Issue Amount Certificate Date: April 18, 1995

Based upon my receipt of the issue amount certificate required of the issuing authority by Section 1-11-550 of the South Carolina Code of Laws, 1976, as amended, which certificate is dated not more than ten (10) business days prior to the projected date of issue which, as certified by the issuing authority, is within the time period during which the ceiling allocation approved previously on a tentative basis by the State Budget and Control Board for the referenced project is valid, I have determined that the allocation is now final in the amount indicated above.

I also have determined that the referenced issue when issued and combined with the amount of private activity bonds and notes certified to me previously by South Carolina issuing authorities as having been issued or which are to be issued in 1995 will not exceed the 1995 State Ceiling on the issuance of private activity bonds for the State of South Carolina and thus meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

004C64

Donna Kaminer Williams
Donna Kaminer Williams
Secretary to the Board

FAX (803) 734-2117

EXHIBIT

JAN 10 1995

7

STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
BUDGET AGENDA
ITEM NUMBER 5

AGENCY: General Services

SUBJECT: Clemson Property Sale

The Clemson University Board of Trustees has determined that 251.23± acres of land, known as the Old Pee Dee Station, located in the City of Florence is no longer essential to the public service mission of the University. The Board of Trustees requests authorization to sell the property and place the proceeds in an endowment fund with the income to be used to support research programs at the Pee Dee Research and Education Center.

The Old Pee Dee Station was acquired through two purchases -- a 150-acre tract was purchased in 1912 and a 100-acre tract was purchased in 1946 -- and no unique state appropriations, capital improvement bonds, or formula funds were used for the purchases.

An appraisal of the property indicates an estimated market value of \$1,442,500. Property Management has reviewed the appraisal and concurs with the estimated market value.

When the Budget and Control Board, on July 15, 1986, exempted Clemson University real estate transactions involving agriculture experiment stations from surplus property procedures, it did not exempt those transactions from the requirements of Code Section 1-11-65.

BOARD ACTION REQUESTED:

In accord with Code Section 1-11-65, authorize the Clemson University Board of Trustees to sell the 251.23± acres of land, known as the Old Pee Dee Station located in the City of Florence, for not less than \$1,442,500, and to place the proceeds in an endowment fund with the income to be used to support research programs at the Pee Dee Research and Education Center.

ATTACHMENTS:

Agenda item worksheet; Thompson 12/20/94 letter; Lomas 12/19/94 memo; Appraisal Report and Valuation Analysis; Code Sections 1-11-65, 59-119-60, 59-119-70, and 59-119-80

004065

EXHIBIT

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

JAN 10 1995

7

Meeting Scheduled for: January 10, 1995

Blue
~~Regular Agenda~~ BUDGET & CONTROL BOARD

1. Submitted By:

- (a) Agency: Office of General Services
(b) Authorized Official Signature: Helen T. Zeigler

Helen T. Zeigler

2. Subject:

Clemson University sale of real property known as the "Old Pee Dee Station" in the City of Florence.

3. Summary Background Information:

The Office of General Services advises that on July 15, 1986, when the Board exempted Clemson University real estate transactions involving Agriculture Experiment Stations from surplus property procedures, it did not exempt these transactions from the requirements of Code Section 1-11-65. The Clemson University Board of Trustees has determined that the 251.23± acres of land in the City of Florence, known as the "Old Pee Dee Station," is no longer essential to their public service mission. Therefore, they are seeking permission to sell the property and place the proceeds in an endowment fund with the income to be used to support research programs at the Pee Dee Research and Education Center. The subject property was acquired through two purchases. A 150 acre tract was purchased in 1912 and the 100 acre tract was purchased in 1946. No unique State appropriations, Capital Improvement Bonds, or formula funds were used to purchase the property. An appraisal of the property indicates an estimated market value of \$1,442,500. Property Management has reviewed the appraisal and concurs with the estimated market value.

4. What is Board asked to do?

Approve the Clemson University sale of 251.23± acres known as the "Old Pee Dee Station," for not less than \$1,442,500.00 with the proceeds retained by Clemson to be used to support research programs at the Pee Dee Research and Education Center.

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 Clemson University
2. Clemson University Board of Trustees approval memorandum
3. Appraisal
4. Map
5. Code Sections 1-11-65, 59-119-70, and 59-119-80

004066

EXHIBIT

JAN 10 1995

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STATE BUDGET & CONTROL BOARD



DIVISION OF AGRICULTURE AND NATURAL RESOURCES
S.C. AGRICULTURAL EXPERIMENT STATION
Office of the Director of Land Management

December 20, 1994

Mr. Bruce Taylor, Supervisor of Sales and Acquisitions
SC Budget and Control Board, Division of General Services
1201 Main Street, Suite 410
Columbia, SC 29201

Dear Bruce:

Clemson University is the owner of approximately 251± acres of land in the City of Florence know as the "Old" Pee Dee Station. The university has decided to offer the property for sale. A copy of the MAI appraisal on the property has been forwarded to the Budget and Control Board for review.

The Clemson University Board of Trustees has approved offering the property for sale at a minimum bid price of \$1,442,500. Sale proceeds will be placed into an endowment and income from the endowment will be used to support research programs at the Pee Dee REC (see attached memorandum from the Secretary of the Board of Trustees).

The subject property was acquired through two purchases. A 150-acre tract was purchased in 1912 and a 100-acre tract was purchased in 1946. No unique State appropriations, Capital Improvement Bonds nor formula funds were used to purchase the property.

The Budget and Control Board action requested: Approval to offer for sale the 251 ± acre parcel at a minimum price of \$ 1,442,500.

Please let me know if you have any questions about this or need additional information on the property. I hope the item will be considered by the Budget and Control Board at their January meeting. Please let me know so that I can be available to address any question they might have.

Sincerely,

Stassen Thompson
C. Stassen Thompson
Director of Land Management

attachment

xc: J. Fischer
J. Gogue
N. Lomax
P. Prince

004067



a.taylor.wpc

**EXHIBIT**

JAN 10 1995

7

STATE BUDGET & CONTROL BOARD

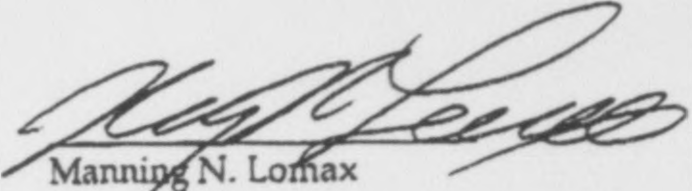
SECRETARY OF THE BOARD OF TRUSTEES

December 19, 1994

MEMORANDUM TO: Dr. Stassen Thompson
Chairman, Land Use Planning Board

SUBJECT: Old Pee Dee Station

The Board of Trustees has approved by mail ballot the sale of the 251 acre tract of land known as the Old Pee Dee Station for a minimum bid price of \$1,442,500. Proceeds from the sale are to be placed in an endowment and income from the endowment will be used to support research programs at the Pee Dee Research and Education Center.



Manning N. Lomax

rc

004068

EXHIBIT

JAN 10 1995

7

STATE BUDGET & CONTROL BOARD

**APPRAISAL REPORT
AND
VALUATION ANALYSIS**

**251.23 ACRES OF LAND
LOCATED ALONG US 52
NEAR ITS INTERSECTION WITH I-95
FLORENCE, SOUTH CAROLINA**

PREPARED FOR

**MR. C. STASSEN THOMPSON
DIRECTOR OF LAND MANAGEMENT
CLEMSON UNIVERSITY
263 BARRE HALL
BOX 340355
CLEMSON, SOUTH CAROLINA 29634-0355**

PREPARED BY

**ROBERT M. CHRISTOPHER, MAI
P.O. BOX 1247
FLORENCE, SOUTH CAROLINA 29503**

VALUE ESTIMATE AS OF OCTOBER 21, 1994

ROBERT M. CHRISTOPHER, MAI

004069

REAL ESTATE APPRAISALS
COMMERCIAL, INDUSTRIAL,
MULTIFAMILY RESIDENTIAL
RESORT PROPERTIES

ROBERT M. CHRISTOPHER, MAI

REAL ESTATE APPRAISER AND CONSULTANT

MAILING ADDRESS:
P. O. BOX 1247
FLORENCE, SOUTH CAROLINA 29503

OFFICES
FLORENCE, S. C.
2231 W. PALMETTO ST.
SUITE 201
PHONE (803) 688-4448
MYRTLE BEACH, S. C.
21st AVE., PROFESSIONAL CENTER
PHONE (803) 448-3833

October 25, 1994

Mr. C. Stassen Thompson
Director of Land Management
Clemson University
263 Barre Hall
Box 340355
Clemson, South Carolina 29634-0355

Re: Appraisal of 251.23 acres of land located southwest of US 52 between the City of Florence and Interstate 95, Florence County, South Carolina

Dear Mr. Thompson:

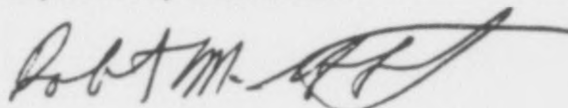
According to your request, I submit herewith an estimate of the market value of the fee simple interest in the above described property.

This appraisal has been prepared, to the best of my ability, to comply with the Code of Ethics of the Appraisal Institute, the Uniform Standards of Professional Appraisal Practice, as well as the Financial Institution Reform, Recovery, and Enforcement Act.

After careful consideration of all of the pertinent facts and information outlined in this report, it is my judgment that the market value of the subject property, as of October 21, 1994, was

ONE MILLION FOUR HUNDRED FORTY-TWO THOUSAND FIVE HUNDRED DOLLARS
(\$1,442,500)

Respectfully submitted,



Robert M. Christopher, MAI

State Certified General Real Estate Appraiser
South Carolina Certificate #CG13

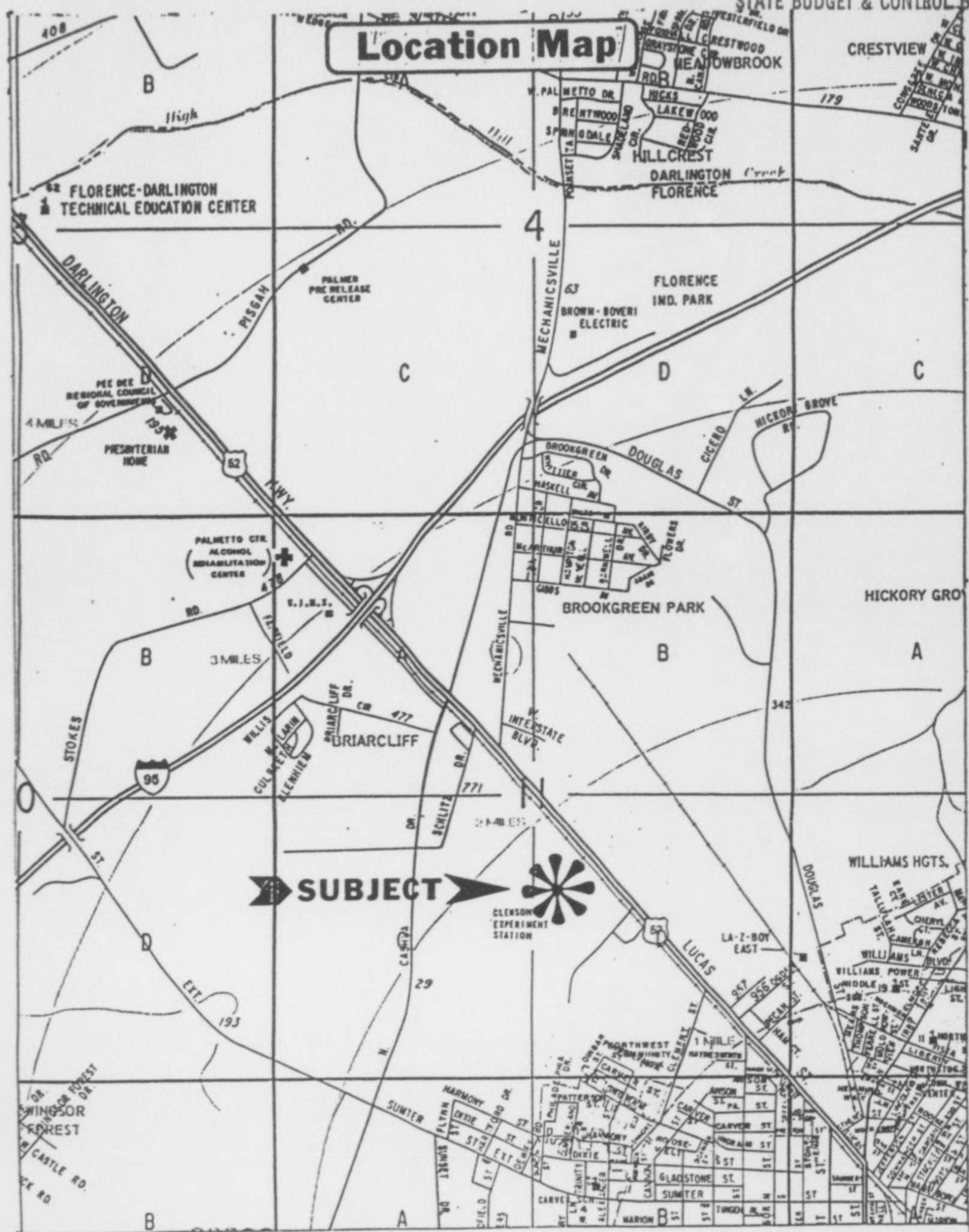
State Certified General Real Estate Appraiser
North Carolina Certificate #A1982

RMC/egc

004070

7

Location Map



004671

EXHIBIT

JAN 10 1965

7

STATE BUDGET & CONTROL BOARD

"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."

004072

JAN 10 1995

take any property or money given or conveyed by deed, devise or bequest to said university and hold the same for its use and benefit; *provided, however,* that the conditions of such gifts or conveyances shall in no case be inconsistent with the purposes of §§ 59-119-10 to 59-119-70 and that the board shall not by the acceptance thereof incur any obligation on the part of the State. It shall securely invest all funds and keep all property which may come into its possession and may sell any of the personal property not subject to the trust and reinvest the same in such way as it deems best for the interest of said university. It may sue and be sued and plead and be impleaded in its corporate name and may do all things necessary to carry out the provisions of §§ 59-119-10 to 59-119-70 and may make bylaws for this purpose if it deems it necessary.

HISTORY: 1962 Code § 22-205; 1952 Code § 22-205; 1942 Code § 5733; 1932 Code § 5733; Civ. C. '22 § 2829; Civ. C. '12 § 1889; Civ. C. '02 § 1303; R. S. 1121; 1889 (20) 279; 1939 (41) 77.

CASE NOTES

Quoted in *Hopkins v Clemson Agricultural College*, 221 U.S. 636, 31 S. Ct. 634, 55 L. Ed. 890 (1911).

§ 59-119-70. Sale of real estate.

The board of trustees of Clemson University may sell and make title to, upon such terms and conditions as it deems advisable, any real estate held by it as such; *provided, however,*

(1) That such power and authority shall not extend to any part of the real property included in the bequest of Thomas G. Clemson; and

(2) That the authority and power herein bestowed upon said board of trustees shall not be exercised unless two thirds of the members of the board shall have agreed thereto.

Any conveyance made under this authority shall be made in accordance with the bylaws adopted by said board of trustees.

HISTORY: 1962 Code § 22-206; 1952 Code § 22-206; 1942 Code § 5733; 1932

§ 59-119-80. Expenditure of moneys and use of property generally.

It shall require a two-thirds vote of the board of trustees to authorize the expenditure of any monies appropriated to the university by the State or to authorize the sale, transfer or reinvestment of any property or monies arising from the sale of any property under the provisions of this chapter. All such actions shall be exercised in a manner consistent with the provisions of Chapter 35 of Title 11 of the 1976 Code.

HISTORY: 1981 Act No. 148, § 13, eff. July 30, 1981.

Effect of Amendments—

The 1981 amendment added the second sentence and, in the first sentence, changed the word "moneys" to "monies" in two places.

004673

EXHIBIT

JAN 10 1995

8

STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
ITEM NUMBER 6

AGENCY: General Services

SUBJECT: Easements

A. 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: Greenville
From: Budget and Control Board
To: Western Carolina Regional Sewer Authority
Description/Purpose: To install sewer pipelines beneath the Enoree River (1st crossing)
Consideration: \$-0-
2. County Location: Greenville
From: Budget and Control Board
To: Western Carolina Regional Sewer Authority
Description/Purpose: To install sewer pipelines beneath the Enoree River (2nd crossing)
Consideration: \$-0-
3. County Location: Greenville
From: Budget and Control Board
To: Western Carolina Regional Sewer Authority
Description/Purpose: To install sewer pipelines beneath the Enoree River (3rd crossing)
Consideration: \$-0-

B. The Office of General Services recommends that the Board concur and acquiesce in the granting of the following easement in accord with § 10-1-130:

County Location: Jasper
From: Mental Health
To: South Carolina Electric & Gas
Description/Purpose: For a tract of land at or near the intersection of SC Highway 278 and SC Road S-27-362
Consideration: \$1

BOARD ACTION REQUESTED:

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

ATTACHMENTS:

004074

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.

004075

§ 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.

EXHIBIT

JAN 10 1995

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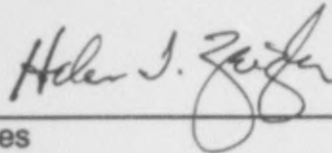
STATE BUDGET AND CONTROL BOARD

STATE BUDGET & CONTROL BOARD
BLUE AGENDA

MEETING OF January 10, 1995

ITEM NUMBER _____

AUTHORIZED OFFICIAL SIGNATURE



AGENCY:

General Services

SUBJECT:

Easements

A. The Office 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: | Greenville |
| | From: | B&CB |
| | To: | Western Carolina Regional Sewer Authority |
| | Consideration: | 0 |
| | Description/purpose: | To install sewer pipelines beneath the Enoree River (1st crossing), Greenville County, South Carolina. |
| 2. | County Location: | Greenville |
| | From: | B&CB |
| | To: | Western Carolina Regional Sewer Authority |
| | Consideration: | 0 |
| | Description/purpose: | To install sewer pipelines beneath the Enoree River (2nd crossing), Greenville County, South Carolina. |
| 3. | County Location: | Greenville |
| | From: | B&CB |
| | To: | Western Carolina Regional Sewer Authority |
| | Consideration: | 0 |
| | Description/purpose: | To install sewer pipelines beneath the Enoree River (3rd crossing), Greenville County, South Carolina. |

BOARD ACTION REQUESTED:

A. Approve the referenced easements as recommended by the Office of General Services.

ATTACHMENTS:

Code Sections

004C76

2001-10-10 15:03:42

"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.

004077

§ 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.

EXHIBIT

JAN 10 1995

8

INDENTURE, made this 2nd day of November 1994
by and between S. C. Department of Mental Health STATE BUDGET & CONTROL BOARD

of the City of Columbia, County of Richland and State of
South Carolina (hereinafter called Grantors), and the SOUTH CAROLINA ELECTRIC & GAS COMPANY, a South Carolina
corporation, having its principal office in Columbia, South Carolina (hereinafter called Grantee).

WITNESSETH:

That, in consideration of the sum of One Dollar (\$1.00) received from Grantee, Grantors, being the owners of land situate in the
County of Jasper, State of South Carolina, hereby grant and convey to Grantee, its successors and
assigns, the right to construct, extend, replace, relocate, perpetually maintain and operate an electric line or lines consisting of any
or all of the following: poles, conductors, overhead and underground lightning protective wires, municipal, public, or private com-
munication wires, underground cables, conduits, transformer pads, guys, push braces and other accessory apparatus and equipment
deemed by Grantee to be necessary therefor, upon, over, across, through, and under land described as follows: a tract or lot of land
containing 2.0 acres, more or less, and being the same lands conveyed to grantor by deed or will of Jasper County
dated XXXXXX 12-06-93, and
recorded in the R. M. C. ~~XXXXXX~~ Office for Jasper
County in Deed Book 130 Page 119 on 12-22-93

A tract of land located at or near the intersection of SC Highway 278
and SC Road S-27-362.

The right of way is as more fully shown on SCE&G drawing number
D-38777, Sheet 1 of 1, and revisions thereof, and is by reference only
made a part hereof.

004078

Together with the right from time to time to install on said line such additional lines, apparatus and equipment as Grantee may
deem necessary and the right to remove said line or any part thereof.

Together also with the right from time to time to trim, cut or remove trees, underbrush and other obstructions that are within,
over, under or through a strip of land extending Ten (10) feet on each side of the center
of said lines, cables, conduits, or pipes as they may be located now or in the future; provided, however, any damage to the property of
Grantors (other than that caused by trimming, cutting or removing) caused by Grantee in maintaining or repairing said lines, shall be
borne by Grantee; provided further, however that Grantors agree for themselves, their successors and assigns, not to build or allow any
structure to be placed on the premises in such a manner that any part thereof will exist within the above specified number of feet of
any wire strung on the said lines or over any such cables, pipes, conduits, or other associated facilities, and in case such structure is
built, then the Grantor, or such successor and assign as may be in possession and control of the premises at the time, will promptly
remove the same upon demand of the Grantee herein. Together also with the right of entry upon the Grantors' said lands for all of the
purposes aforesaid.

Grantee's rights shall be subject to the lien of the mortgage indenture dated January 1, 1945 and supplements thereto, entered into
between Grantee and Central Hanover Bank and Trust Company (now Manufacturers Hanover Trust Company) which mortgage
indenture is recorded in the office of the R. M. C. or Clerk of Court in the County and State aforesaid.

The words "Grantors" and "Grantee" shall include their heirs, executors, administrators, successors and assigns, as the case
may be.

IN WITNESS WHEREOF, Grantors have caused this indenture to be duly executed the day and year first above written.

WITNESS:

Miriam M. Blank
Lynne A. Palmer

S.C. Department of Mental Health
By: Joseph J. Bevilacqua, Ph.D., as (SEAL)
Director of the S.C. Department of (SEAL)
Mental Health and Executive Secretary
of the Mental Health Commission (SEAL)
(SEAL)

EXHIBIT

STATE OF SOUTH CAROLINA.

County of _____

ss

Personally appeared before me _____
and made oath that he saw the within named _____

_____ sign, seal and
as his act and deed deliver the within easement for the uses and purposes therein mentioned, and that he with _____
in the presence of each other, witnessed the due execution thereof.

Sworn to before me this _____
day of _____ A. D., 19____

Notary Public for S. C.

STATE OF SOUTH CAROLINA.

County of _____

ss

Personally appeared before me _____
and made oath that he saw the within named _____

_____ sign, seal and
as his act and deed deliver the within easement for the uses and purposes therein mentioned, and that he with _____
in the presence of each other, witnessed the due execution thereof.

Sworn to before me this _____
day of _____ A. D., 19____

Notary Public for S. C.

STATE OF SOUTH CAROLINA.

RICHLAND County.

Miriam M. Bland

Personally appeared before me _____
and made oath that she saw the within named SC Department of Mental Health
by the hand of Joseph J. Bevilacqua, Ph.D. _____ sign, affix the

corporate seal, and as the act and deed of said corporation deliver the within written instrument for the uses and purposes therein
mentioned, and that she with Lynne W. Fulmer _____ witnessed the execution thereof and
subscribed their names as witnesses thereto.

Sworn to and subscribed before me this 2nd
day of November A. D., 1994

Barbara B. Clary (L. S.)
Barbara B. Clary

Notary Public for S. C.

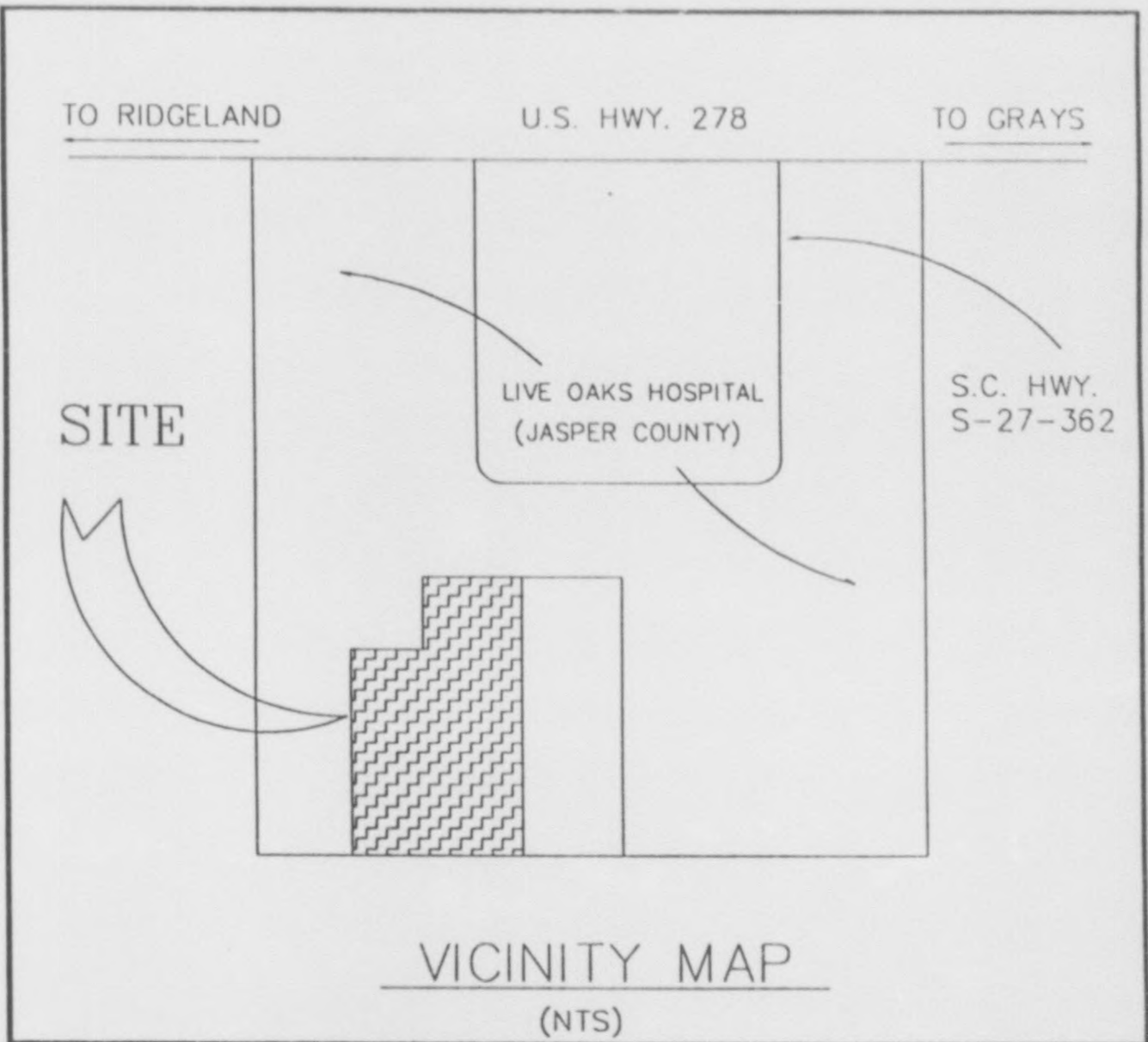
My Commission Expires: 9/19/2000

In accordance with provisions of 1-11-65 and 10-1-130 Code of Laws of South Carolina,
as amended, at its meeting held on January 10, 1995, approval is given by
the STATE BUDGET AND CONTROL BOARD to the easement granted herein.

Donna K. Williams, Secretary for the Board

Line _____	County _____	RIGHT OF WAY GRANT	TO	South Carolina Electric & Gas Company	Dated _____, 19____	Received in the Clerk's Office of the County _____	of _____	South Carolina, on the _____	day of _____ A. D. 19____	at _____ o'clock in the _____ noon	and recorded in Book _____ of Deeds	for said County on Page _____
R/W File No. _____	Block No. _____											

004079



004C80

EXHIBIT

JAN 10 1995

8

STATE OF SOUTH CAROLINA

)

)

)

COUNTY OF GREENVILLE

)

STATE BUDGET & CONTROL BOARD

EASEMENT

THIS EASEMENT, made and entered into this _____ day of _____, 1994, by and between the State of South Carolina, Budget and Control Board, as Grantor (hereinafter "STATE"), and **Western Carolina Regional Sewer Authority** as Grantee (hereinafter "GRANTEE").

WITNESSETH

WHEREAS, GRANTEE is a UTILITY COMPANY, and GRANTEE's mailing address is Post Office Box 5242, Greenville, South Carolina 29606; and

WHEREAS, GRANTEE proposes to install sewer pipelines beneath the Enoree River (3rd crossing), Greenville County, South Carolina. The wastewater pipelines and easement are more particularly shown and delineated on a drawing entitled, SURVEY OF 40' SEWER LINE EASEMENT CROSSING ENOREE RIVER, GREENVILLE COUNTY, S.C., PREPARED FOR WESTERN CAROLINA REGIONAL SEWER AUTHORITY, GREENVILLE, S.C., Dated: 12/2/94, 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, GRANTEE is desirous of obtaining the hereinafter described easement through and over riverbeds and marshlands in Greenville County, and the STATE considers the granting of such an easement to be in the public interest.

004081

NOW, THEREFORE, the STATE as Grantor, in consideration of the sum of ONE DOLLAR (\$1.00), receipt of which is hereby acknowledged, does hereby grant, remise, and release unto GRANTEE its successors and assigns, a right-of-way easement in, to, upon and over the below described portion of riverbed and marshland; such riverbed and marshland situate in Greenville 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 the wastewater pipelines. The easement area is more particularly described as follows:

A utility easement 40' wide for wastewater pipelines running from ordinary highwater to ordinary highwater on Enoree River, Greenville County, South Carolina. Said easement is located 30' north and 10' south of a survey baseline described as follows:

Commencing at a survey point with SC State Plane Coordinates $X=1,615,860.8$ and $Y=1,122,582.8$ running thence $N55^{\circ}27'W$, 12 feet to ordinary highwater and the beginning of said easement, thence continuing $N55^{\circ}27'W$, 38 feet across Enoree River to ordinary highwater and the end of said easement.

The easement area is more particularly shown and delineated on a drawing entitled SURVEY OF 40' SEWER LINE EASEMENT CROSSING ENOREE RIVER, GREENVILLE COUNTY, S.C., PREPARED FOR WESTERN CAROLINA REGIONAL SEWER AUTHORITY, GREENVILLE, S.C., Dated: 12/2/94, 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.

The vertical clearance of all electrical wire, conductors, cables and live parts of equipment across all navigable waters and/or waters of the State of South Carolina shall be constructed in accordance with National Electric Safety Code (ANSI-C2-1981) Part 2, Section 23, as amended.

GRANTEE hereby agrees and covenants with the STATE that GRANTEE, 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. GRANTEE shall use the easement area solely for the purpose incidental with the construction, operation, and maintenance of said wastewater pipelines and shall maintain such easement area and wastewater pipelines in good condition.

004082

GRANTEE further agrees and covenants that GRANTEE 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 Department of Health and Environmental Control shall be notified in writing prior thereto.

GRANTEE 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 GRANTEE, its successors and assigns: (1) quits and abandons all use of such wastewater pipelines 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, restrictions and covenants of record, or of plats of record, or which may be revealed upon inspection of the property.

004C83

EXHIBIT

JAN 10 1995

8

IN WITNESS WHEREOF, this instrument is being executed in accordance with the action of the STATE BUDGET & CONTROL BOARD

South Carolina Budget and Control Board at its meeting held on the 10th day of

January, ^{1995.}
1994.

WITNESSES:

Michael R. Houston
Lanana S. Spaul

WITNESSES:

Dolphine Posey

STATE OF SOUTH CAROLINA
BUDGET & CONTROL BOARD

BY: Carroll A. Campbell, Jr.

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

Western Carolina Regional Sewer Authority

BY: Laurel F. Hibel

ACTING EXECUTIVE DIRECTOR
/TITLE

Approved
OFFICE OF THE ATTORNEY GENERAL

BY: Kenneth P. Woodington
Kenneth P. Woodington

DATE: 12/16/94

004084

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. Sprules, witnessed the execution thereof.

Michael L. Thompson

SWORN to before me this 10th

day of January, 1994. 1995

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

My Commission expires: 3-21-95

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

PERSONALLY appeared before me CHARLENE H. PATTISON and made oath that he/she saw the within named Western Carolina Regional Sewer Authority by Lawrence R. Hildebrand, its Acting Director, sign, seal, and as its act and deed deliver the within written Easement, and that he/she, along with Delphine Posey, witnessed the execution thereof.

Charlene H. Pattison

SWORN to before me this 30th

day of DECEMBER, 1994.

Charlene H. Pattison (L.S.)
Notary Public for South Carolina

My Commission Expires: 7/21/96

004085

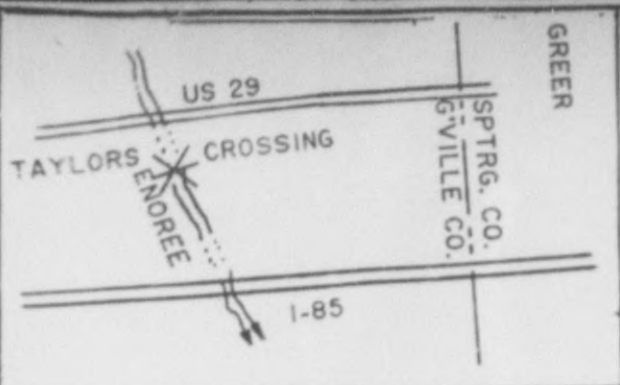
REF. DILLARD ROAD SANITARY
SEWER REDESIGN BY PIEDMONT
OLSEN HENSLEY JUNE 1994

EXHIBIT

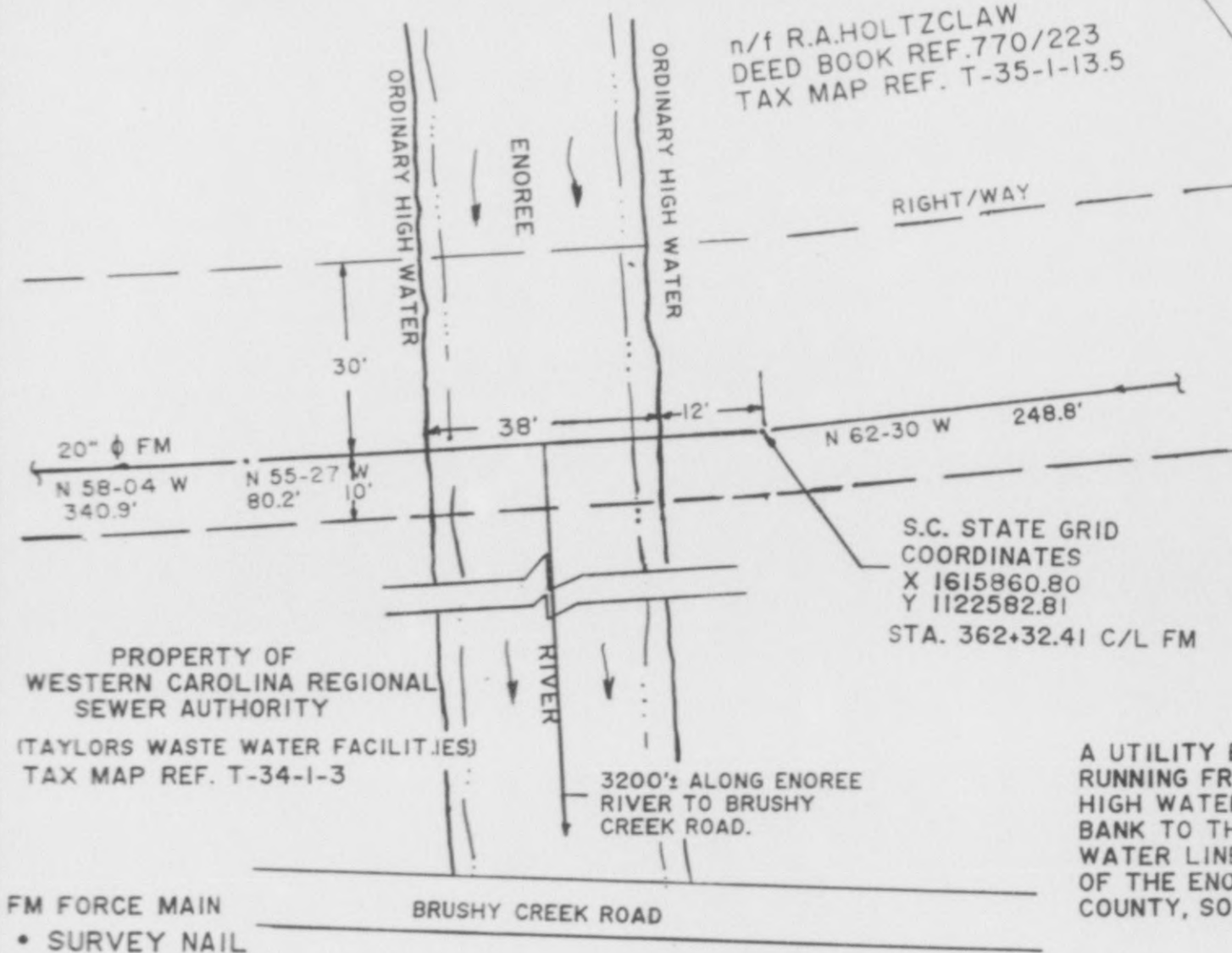
JAN 10 1995

8

STATE BUDGET & CONTROL BOARD



n/f R.A. HOLTZCLAW
DEED BOOK REF. 770/223
TAX MAP REF. T-35-1-13.5



S.C. STATE GRID
COORDINATES
X 1615860.80
Y 1122582.81
STA. 362+32.41 C/L FM

004086

A UTILITY EASEMENT 40' WIDE
RUNNING FROM THE ORDINARY
HIGH WATER LINE ON THE EAST
BANK TO THE ORDINARY HIGH
WATER LINE ON THE WEST BANK
OF THE ENOREE RIVER, GREENVILLE
COUNTY, SOUTH CAROLINA.



SURVEY OF
40' SEWER LINE EASEMENT
CROSSING ENOREE RIVER
GREENVILLE CO., SC

PREPARED FOR
WESTERN CAROLINA REGIONAL
SEWER AUTHORITY

GREENVILLE, SC

We hereby state that to the best of our knowledge, information,
and belief, the survey shown herein was made in accordance
with requirements of the "Minimum Standards Manual for the
Practice of Land Surveying in South Carolina", and meets or
exceeds the requirements of a Class "D" survey as specified
therein.

Piedmont Olsen Hensley

Jackie T. Rogers 6549 12-2-94

SURVEYOR'S SIGNATURE

ELV

DATE



SCALE 1" = 30'

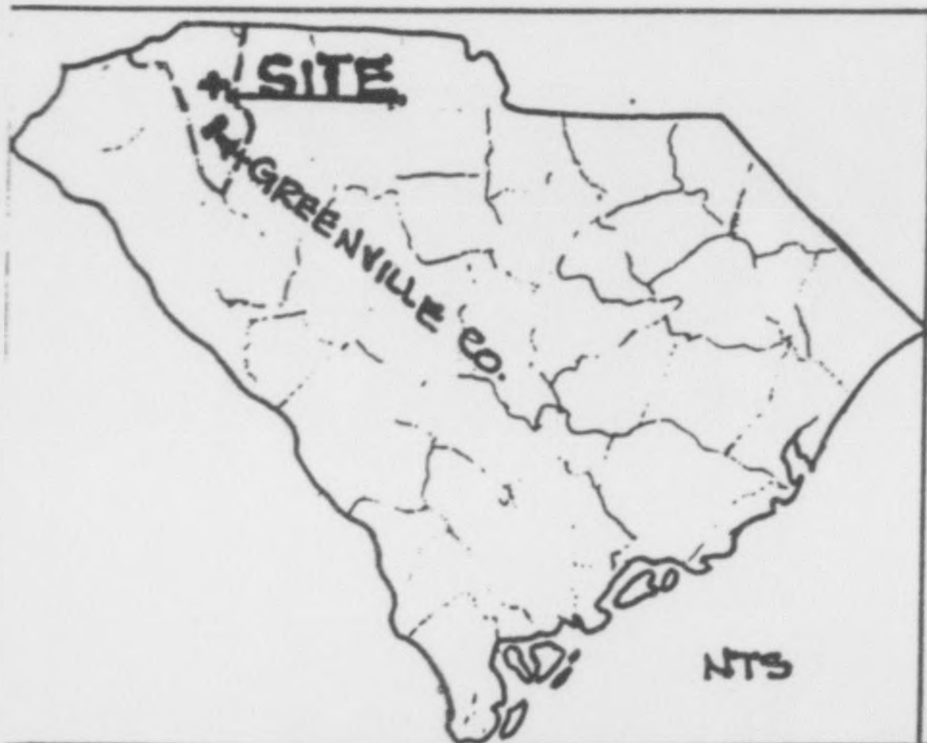
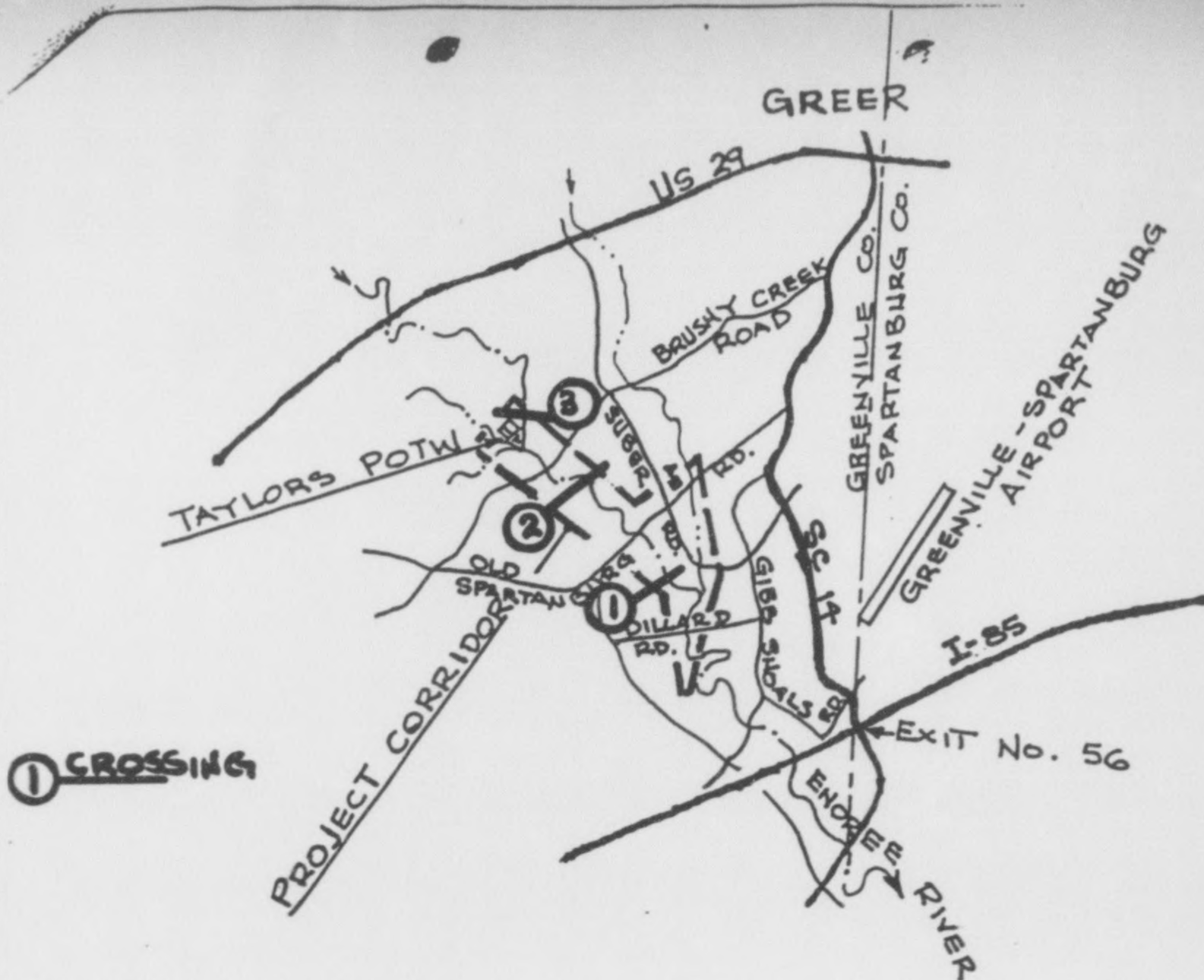
Greenville, SC
Chattanooga, TN

Greenville, NC
Atlanta, GA

Piedmont Olsen Hensley

ENGINEERS, ARCHITECTS AND SURVEYORS

435 Park Avenue -
Post Office Box 1307 Greenville, SC 29602
Tel: 811/242-4307 Fax: 811/235-0062



SITE MAP

1:100,000

004087

PURPOSE: WASTE WATER
COLLECTION

DATUM: NGVD

ADJACENT OWNERS:
SEE LIST

LOCATION MAP

SCALE: NOTED

WESTERN CAROLINA
REGIONAL SEWER
AUTHORITY (WCRSA)
P.O. BOX 5242
GREENVILLE, SC 29606

PROPOSED GRAVITY
SEWER AND FORCE
MAIN

IN: ENOREE RIVER FLOOD
PLAIN

AT: GREER, SC

APPL: WCRSA

SHEET 1 OF 8 9-22-93

EXHIBIT

JAN 10 1995

8

STATE OF SOUTH CAROLINA

)

)

)

COUNTY OF GREENVILLE

)

STATE BUDGET & CONTROL BOARD
EASEMENT

THIS EASEMENT, made and entered into this _____ day of _____, 1994, by and between the State of South Carolina, Budget and Control Board, as Grantor (hereinafter "STATE"), and Western Carolina Regional Sewer Authority as Grantee (hereinafter "GRANTEE").

WITNESSETH

WHEREAS, GRANTEE is a UTILITY COMPANY, and GRANTEE's mailing address is Post Office Box 5242, Greenville, South Carolina 29606; and

WHEREAS, GRANTEE proposes to install sewer pipelines beneath the Enoree River (2nd crossing), Greenville County, South Carolina. The wastewater pipelines and easement are more particularly shown and delineated on a drawing entitled, SURVEY OF 40' SEWER LINE EASEMENT CROSSING ENOREE RIVER, GREENVILLE COUNTY, S.C., PREPARED FOR WESTERN CAROLINA REGIONAL SEWER AUTHORITY, GREENVILLE, S.C., Dated: 12/2/94, 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, GRANTEE is desirous of obtaining the hereinafter described easement through and over riverbeds and marshlands in Greenville County, and the STATE considers the granting of such an easement to be in the public interest.

004088

EXHIBIT

JAN 10 1995

8

STATE BUDGET & CONTROL BOARD

NOW, THEREFORE, the STATE as Grantor, in consideration of the sum of ONE DOLLAR (\$1.00), receipt of which is hereby acknowledged, does hereby grant, remise, and release unto GRANTEE its successors and assigns, a right-of-way easement in, to, upon and over the below described portion of riverbed and marshland; such riverbed and marshland situate in Greenville 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 the wastewater pipelines. The easement area is more particularly described as follows:

A utility easement 40' wide for wastewater pipelines running from ordinary highwater to ordinary highwater on Enoree River, Greenville County, South Carolina. Said easement is located 20' north and 20' south of a survey baseline described as follows:

Commencing at a survey point with SC State Plane Coordinates X=1,619,774.8 and Y=1,118,801.0 running thence N62°28'E, 30 feet to ordinary highwater and the beginning of said easement, thence continuing N62°28'E, 65 feet across Enoree River to ordinary highwater and the end of said easement.

The easement area is more particularly shown and delineated on a drawing entitled SURVEY OF 40' SEWER LINE EASEMENT CROSSING ENOREE RIVER, GREENVILLE COUNTY, S.C., PREPARED FOR WESTERN CAROLINA REGIONAL SEWER AUTHORITY, GREENVILLE, S.C., Dated: 12/2/94, 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.

The vertical clearance of all electrical wire, conductors, cables and live parts of equipment across all navigable waters and/or waters of the State of South Carolina shall be constructed in accordance with National Electric Safety Code (ANSI-C2-1981) Part 2, Section 23, as amended.

GRANTEE hereby agrees and covenants with the STATE that GRANTEE, 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. GRANTEE shall use the easement area solely for the purpose incidental with the construction, operation, and maintenance of said wastewater pipelines and shall maintain such easement area and wastewater pipelines in good condition.

004089

GRANTEE further agrees and covenants that GRANTEE 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 Department of Health and Environmental Control shall be notified in writing prior thereto.

GRANTEE 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 GRANTEE, its successors and assigns: (1) quits and abandons all use of such wastewater pipelines 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, restrictions and covenants of record, or of plats of record, or which may be revealed upon inspection of the property.

004C90

EXHIBIT

JAN 10 1995

8

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 10th day of January, 1995.

WITNESSES:

William C. Thompson
Ramona H. Spauld

WITNESSES:

Delphine Reese
Charles H. Patterson

Approved
OFFICE OF THE ATTORNEY GENERAL

BY: Kenneth P. Woodington
Kenneth P. Woodington

DATE: 12/16/94

STATE OF SOUTH CAROLINA
BUDGET & CONTROL BOARD

BY:

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

Western Carolina Regional Sewer Authority

BY:

Laura F. Hild
ACTING EXECUTIVE DIRECTOR
TITLE

004091

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. Spiller, witnessed the execution thereof.

Michael L. Thompson

SWORN to before me this 10th

day of January, 1994. 1995

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

My Commission expires: 3-21-95

STATE OF SOUTH CAROLINA)

COUNTY OF Greenville)

PERSONALLY appeared before me CHARLENE H. PATTERSON and made oath that he/she saw the within named Western Carolina Regional Sewer Authority by Lauren R. Hildebrand, its Acting Director, sign, seal, and as its act and deed deliver the within written Easement, and that he/she, along with DELPHINE POSEY, witnessed the execution thereof.

Charlene H. Patterson

SWORN to before me this 30th

day of DECEMBER, 1994.

Charlene H. Patterson (L.S.)
Notary Public for South Carolina

My Commission Expires: 7/21/96

004092

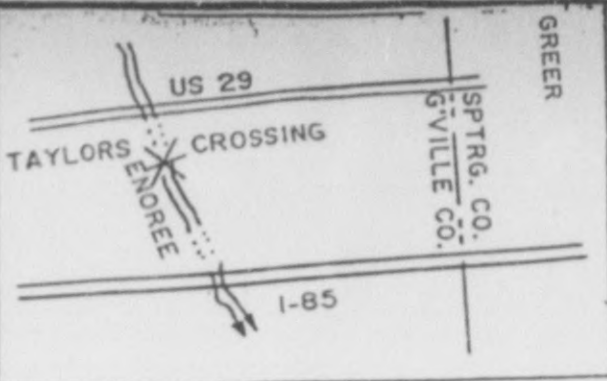
REF. DILLARD ROAD SANITARY
SEWER REDESIGN BY PIEDMONT
OLSEN HENSLEY JUNE 1994

EXHIBIT

JAN 10 1995

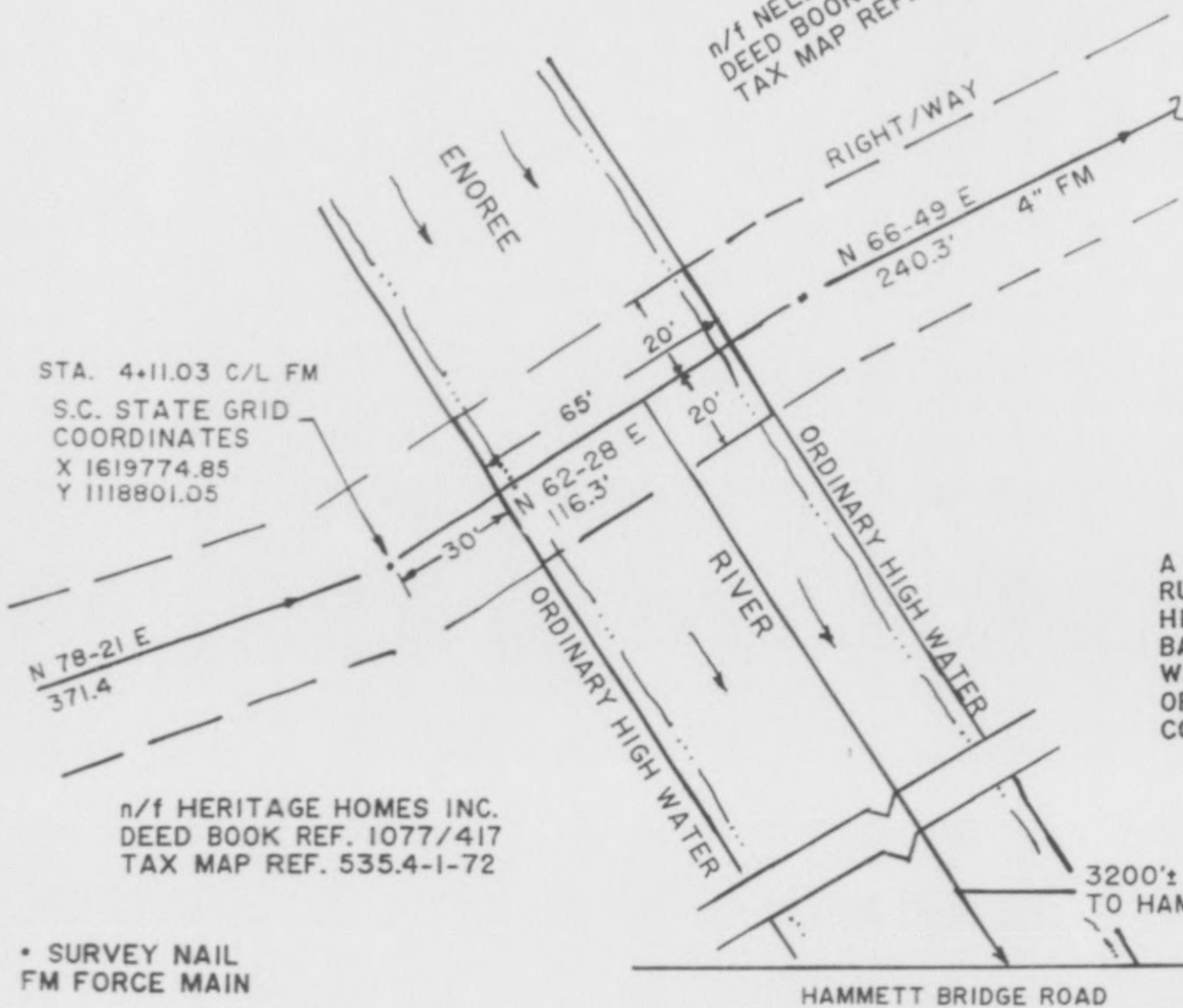
8

STATE BUDGET & CONTROL BOARD



n/f NELDA AMSPACHER
DEED BOOK REF. 1323/990
TAX MAP REF. 535.3-1-6

S.C. GRID

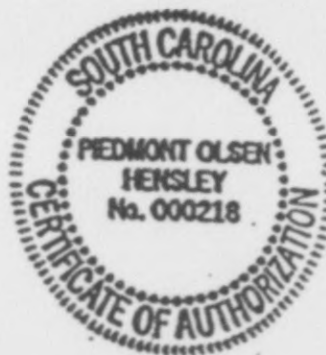


A UTILITY EASEMENT 40' WIDE
RUNNING FROM THE ORDINARY
HIGH WATER LINE ON THE WEST
BANK TO THE ORDINARY HIGH
WATER LINE ON THE EAST BANK
OF THE ENOREE RIVER, GREENVILLE
COUNTY, SOUTH CAROLINA.

3200'± ALONG ENOREE RIVER
TO HAMMETT BRIDGE ROAD.

HAMMETT BRIDGE ROAD

• SURVEY NAIL
FM FORCE MAIN



SURVEY OF
40' SEWER LINE EASEMENT
CROSSING ENOREE RIVER
GREENVILLE CO., SC

PREPARED FOR
WESTERN CAROLINA REGIONAL
SEWER AUTHORITY

GREENVILLE, SC

004093

We hereby state that to the best of our knowledge, information,
and belief, the survey shown herein was made in accordance
with requirements of the "Minimum Standards Manual for the
Practice of Land Surveying in South Carolina", and meets or
exceeds the requirements of a Class "D" survey as specified
therein.

Piedmont Olsen Hensley

Jackie T. Rogers 6549 12-2-94

SURVEYOR'S SIGNATURE

ELV

DATE



SCALE 1" = 50'

Greenville, SC
Chattanooga, TN

Greenville, SC
Atlanta, GA

Piedmont Olsen Hensley

ENGINEERS, ARCHITECTS AND SURVEYORS

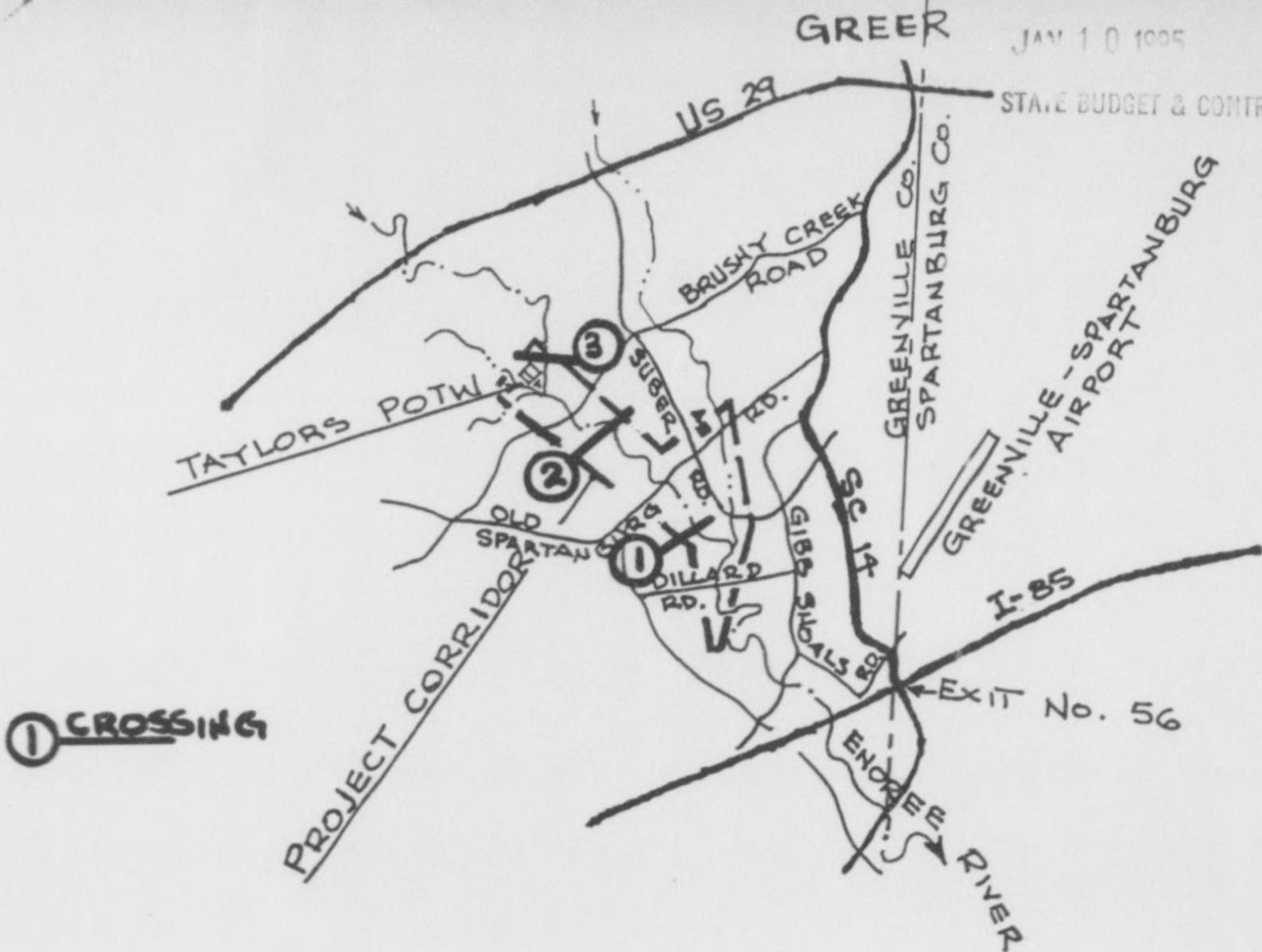
438 Park Avenue
Post Office Box 1207 Greenville, SC 29602
Tel: 863/242-4107 Fax: 863/225-8062

DWN BY K. WILES

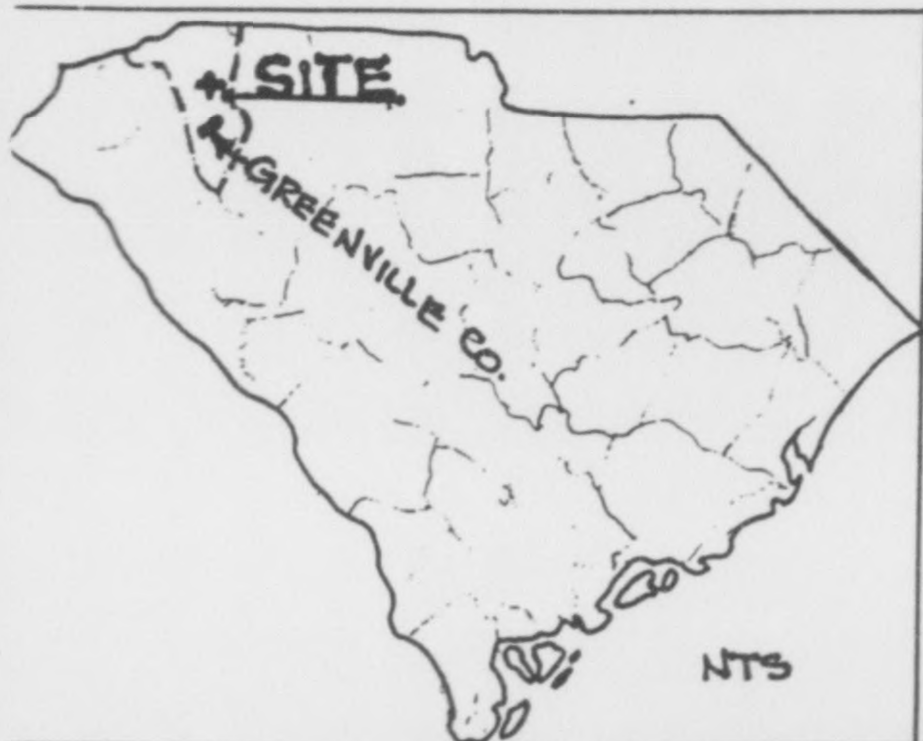
EXHIBIT

JAN 10 1995

STATE BUDGET & CONTROL BOARD



① CROSSING



SITE MAP

1:100,000

004094

PURPOSE: WASTE WATER
COLLECTION

DATUM: NGVD

ADJACENT OWNERS:
SEE LIST

LOCATION MAP

SCALE: NOTED

WESTERN CAROLINA
REGIONAL SEWER
AUTHORITY (WCRSA)
P.O. BOX 5242
GREENVILLE, SC 29606

PROPOSED GRAVITY
SEWER AND FORCE
MAIN

IN: ENOREE RIVER FLOOD
PLAIN

AT: GREER, SC

APPL: WCRSA

SHEET 1 OF 8 9-22-93

EXHIBIT

JAN 10 1995

9

STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
REGULAR SESSION

ITEM NUMBER 1

AGENCY: Budget and Control Board

SUBJECT: Resolutions

To be presented at the meeting.

BOARD ACTION REQUESTED:

Adopt resolutions to be presented at the meeting.

ATTACHMENTS:

004C95

JAN 10 1995

9

**RESOLUTION
OF THE
STATE BUDGET & CONTROL BOARD
SOUTH CAROLINA BUDGET AND CONTROL BOARD**

WHEREAS, Carroll Ashmore Campbell, Jr., was elected to the South Carolina House of Representatives in 1979 and served in that body through 1974, holding the position of Assistant Minority Leader; and was elected to the South Carolina Senate in 1976 and served in that body through 1977; and

WHEREAS, he was elected to the United States Congress in 1978 and served the Fourth Congressional District in that body for eight years, the only sitting member who had served on both the Appropriations and the Ways and Means Committees; and

WHEREAS, he is the 112th person to occupy the Office of Governor of South Carolina, where he has served since his election to that Office in 1986, and the 10th person to serve as Chairman of the Budget and Control Board, and

WHEREAS, Governor Campbell's leadership role has been performed creatively and his ideas and judgments have significantly impacted the operation of the State government, all of South Carolina, and the nation in key and fundamental areas too numerous to list here; and

WHEREAS, in all of the key roles he has played on behalf of the State, Governor Campbell has served South Carolina with distinction; and

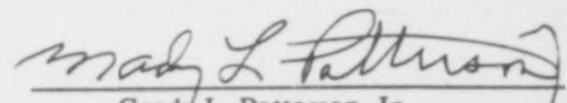
WHEREAS, today he is presiding over the last Board meeting to be held during his tenure as Governor and Chairman of the Board and the Board will miss this colleague who is "an exemplar of governing conservatism for the nation;"

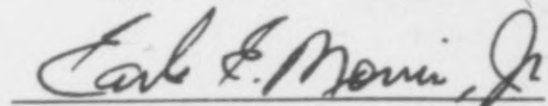
NOW, THEREFORE, BE IT RESOLVED that, on the occasion of the departure of Governor Carroll A. Campbell, Jr., from public service as Governor and as Chairman of the Budget and Control Board, the Board commends and thanks Governor Campbell for his many valuable contributions to the work of this Board over the years and extends to him its deep appreciation for his years of service to South Carolina and its best wishes for every success in his future endeavors.

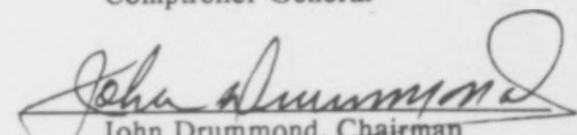
FURTHER, the Board directs that this Resolution be presented to Governor Campbell and that a copy be retained among the Board's official records.

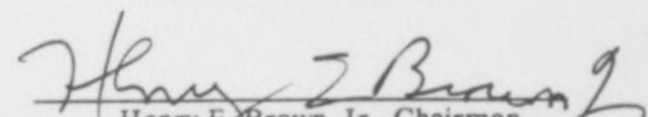
ADOPTED this tenth day of January, 1995, at Columbia.

004096


Grady L. Patterson, Jr.
State Treasurer


Earle E. Morris, Jr.
Comptroller General


John Drummond, Chairman
Senate Finance Committee


Henry E. Brown, Jr., Chairman
Ways and Means Committee

EXHIBIT

RESOLUTION JAN 10 1995 9
OF THE STATE BUDGET & CONTROL BOARD

SOUTH CAROLINA BUDGET AND CONTROL BOARD

WHEREAS, William Daniel Boan, first elected to the South Carolina House of Representatives in 1983, has served the citizens of House District 44 continuously and is now in his 12th year of service to the State of South Carolina as a member of the General Assembly; and

WHEREAS, during the 1987 legislative session, this Lancaster County representative was appointed to the House Ways and Means Committee and has served as Chairman of that Committee since the 1991 legislative session; and

WHEREAS, Representative Boan participated in his first Budget and Control Board meeting as the Chairman of the House Ways and Means Committee on September 4, 1990; and

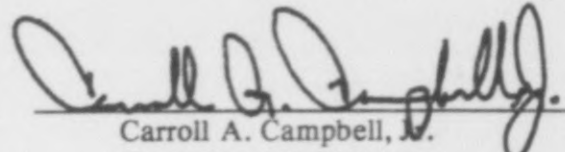
WHEREAS, Representative Boan has been a conscientious Budget and Control Board member who was respected for his understanding of the State budget and for his careful and practical approach to the State's financial matters;

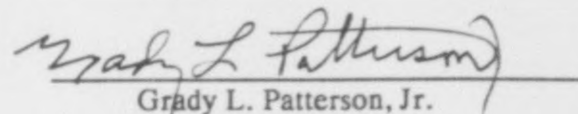
WHEREAS, the Board acknowledges with regret that Representative Boan will no longer serve on this Board.

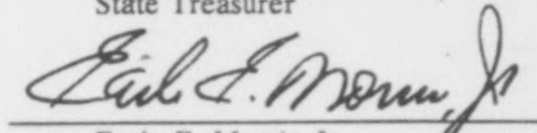
NOW, THEREFORE, the State Budget and Control Board adopts this resolution as a symbolic and formal means by which the Board can recognize and commend the dedicated service to South Carolina by William Daniel Boan, and by which the Board can express its appreciation to Representative Boan for his years of leadership as a member of this Board.

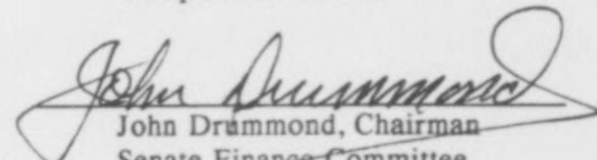
FURTHER, the Board directs that this Resolution be presented to Representative Boan and that a copy be retained among the Board's official records.

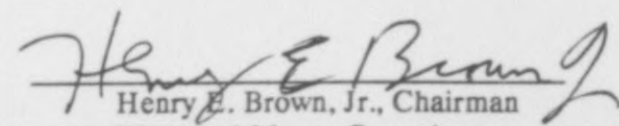
ADOPTED this tenth day of January, 1995, at Columbia.


Carroll A. Campbell, Jr.
Governor and Chairman


Grady L. Patterson, Jr.
State Treasurer


Earle E. Morris, Jr.
Comptroller General


John Drummond, Chairman
Senate Finance Committee


Henry E. Brown, Jr., Chairman
Ways and Means Committee

004097

EXHIBIT

JAN 10 1995

9

RESOLUTION OF THE

STATE BUDGET & CONTROL BOARD

SOUTH CAROLINA BUDGET AND CONTROL BOARD

WHEREAS, Grady Leslie Patterson, Jr., Abbeville County native, attended public schools in Calhoun Falls, attended Clemson University, received a B.S. Degree from the University of South Carolina and an L.L.B. (Juris Doctor) degree from the USC Law School in 1950;

WHEREAS, he served the country as a fighter pilot in World War II, flying combat from Iwo Jima in the Pacific; was called to active duty during the Korean War; and, during the Berlin Crisis served as a jet fighter pilot in Spain; and was awarded the Distinguished Service Medal upon his retirement after 41 years of service in the Air National Guard; and

WHEREAS, he became an employee of the State of South Carolina in January of 1959 as an Assistant Attorney General, where he served for more than seven and one-half years representing various State agencies;

WHEREAS, Grady Leslie Patterson, Jr., was elected State Treasurer on November 8, 1966, and in that capacity has served the people of South Carolina faithfully, creatively, energetically and compassionately for twenty-eight years, leading the country in stopping the federal government from imposing taxes on state and municipal bonds, prepared and supported the passage of legislation to require secondary market disclosure for state and municipal bonds, initiating constitutional amendments to strengthen the State's fiscal position; and

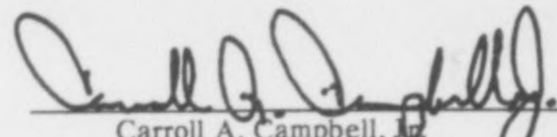
WHEREAS, his intricate knowledge of the work of State government and his measured, ethical, and competent approach to public management have been of inestimable value to the Board and to other agencies of state government; and

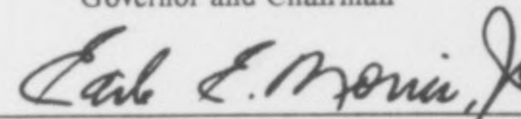
WHEREAS, the Board notes with regret that his reasoned and thoughtful ways of solving large and small problems within the State government will be gone and that his departure will reduce significantly the institutional memory of the entire State government;

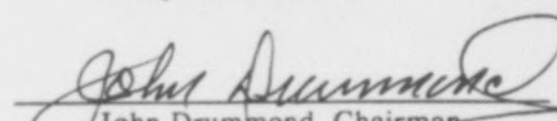
NOW, THEREFORE, BE IT RESOLVED that the State Budget and Control Board, acting for itself and on behalf of the people of South Carolina, recognizes, commends and extends to this good and decent gentleman of the South its deep appreciation for his many years of distinguished public service.

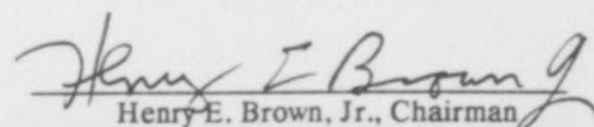
FURTHER, the Board directs that a copy of this Resolution be presented to Mr. Patterson and that a copy be retained among the Board's official records.

ADOPTED this tenth day of January, 1995, at Columbia.


Carroll A. Campbell, Jr.
Governor and Chairman


Earle E. Morris, Jr.
Comptroller General


John Drummond, Chairman
Senate Finance Committee


Henry E. Brown, Jr., Chairman
Ways and Means Committee

004098

EXHIBIT

JAN 10 1995

10

STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
REGULAR SESSION
ITEM NUMBER 1A

AGENCY: State Treasurer

SUBJECT: Bond Counsel Selection

Board approval of bond counsel is requested for the Department of Commerce, authorized note from Insurance Reserve Fund for infrastructure at Savannah Lakes Village:

- (1) McNair & Sanford, P.A.; and
- (2) Haynsworth, Marion, McKay & Guerard.

BOARD ACTION REQUESTED:

Approve the selection of the McNair & Sanford law firm to provide bond counsel services for the Department of Commerce, authorized note from Insurance Reserve Fund for infrastructure at Savannah Lakes Village.

ATTACHMENTS:

Huey January 9 letter; attachments

004099

EXHIBIT

STATE OF SOUTH CAROLINA

OFFICE OF STATE TREASURER

JAN 10 1995

10

STATE BUDGET & CONTROL BOARD

GRADY L. PATTERSON, JR.
STATE TREASURER



P. O. DRAWER 11778

COLUMBIA
29211

January 9, 1995

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

Dear Donna:

The attached request for approval of bond counsel for South Carolina Department of Commerce has been received by the State Treasurer's Office and needs 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,

Sandy Agee Huey
Deputy State Treasurer

SAH:rh
Enclosures

004100

Attachment - 01/09/95

The following request for assignment of bond counsel on a proposed revenue issue has been received by the State Treasurer's Office and is in a position to be considered by the Budget and Control Board.

Agency	Approximate Size of Proposed Issue	Attorney Recommendation by Order of Preference
SC Department of Commerce Division of Savannah Valley Development	Authorized note from Insurance Reserve Fund for infrastructure at Savannah Lakes Village	McNair & Sanford, P. A. Haynsworth, Marion, McKay & Guerard

004101

EXHIBIT

JAN 10 1995 10

STATE BUDGET & CONTROL BOARD

EXHIBIT

REQUEST FOR ASSIGNMENT OF BOND COUNSEL JAN 10 1995

10

STATE BUDGET & CONTROL BOARD

FROM: S. C. Dept. of Commerce, Division of Savannah Valley Development

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

DATE: December 20, 1994

SUBJECT: REQUEST FOR ASSIGNMENT OF BOND COUNSEL

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: Authorized note from Insurance Reserve Fund for
infrastructure at Savannah Lakes Village

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

1. McNair & Sanford, P. A.
NAME OF FIRM

2. Haynsworth, Marion, McKay & Guerard
NAME OF FIRM

SUBMITTED BY: M. William Bashor, Jr. ON 12-20-94
SIGNATURE/TITLE DATE
M. William Bashor, Jr., Division Director

FOR STATE BUDGET AND CONTROL BOARD USE ONLY:

BOND COUNSEL APPROVED: McNair & Sanford, P.A. ON 1/10/95
FIRM DATE

CERTIFIED BY: Donna L. Williams ON 1/10/95
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

004102

EXHIBIT

JAN 10 1995

11

STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
REGULAR SESSION
ITEM NUMBER 2

AGENCY: Office of State Budget

SUBJECT: Notification of Potential Deficit from the Office of Appellate Defense

The Office of Appellate Defense has notified the State Budget and Control Board of a potential general fund deficit of \$94,296. The deficit has been caused by growing printing costs associated with increased appeal activity. Supreme Court Rule 209 requires that fifteen copies of the Record on Appeal be submitted with each appeal. Ten copies are permitted for non-capital cases. If an oral argument is granted, an additional five copies of the transcript must be furnished to the Court. Supreme Court Rule 227 requires two copies of the appendix in each post-conviction appeal.

The Office of Appellate Defense has not been able to meet all financial obligations within its allotted budget since 1991-92 when the agency's budget was reduced 7.3%. Since that time, the Office has received fiscal assistance each succeeding year from the Board through some form of deficit recognition. In each of those years, the Office requested increased funding from the General Assembly, but no increase was granted.

Proviso 17G.36 of the 1994-95 Appropriations Act sets forth a procedure for addressing agencies with potential general fund deficits. This proviso assigns the Board the task of determining the likelihood of a deficit and determining whether the cause of the deficit is unavoidable due to factors which are wholly outside of an agency's control. If the Board finds the deficit is unavoidable due to factors which are wholly outside of an agency's control, the findings are transmitted to the General Assembly.

Per the instructions set out in Proviso 17G.36 of the 1994-95 Appropriations Act, the Office of State Budget recommends that the Board determine the deficit is wholly outside of the agency's control and to notify the General Assembly of the Board's findings.

BOARD ACTION REQUESTED:

Determine that a potential deficit of \$94,296 for 1994-95 in the Office of Appellate Defense is unavoidable due to factors wholly outside of the agency's control, recognize the potential deficit, and notify the General Assembly of the Board's findings.

ATTACHMENTS:

Agenda item worksheet; Proviso 17G.36; Stacey December 20 letter, Morris
December 21 memo

004103

EXHIBIT

JAN 10 1995

11

STATE BUDGET & CONTROL BOARD

17G.36. (BCB/DBA: BEA - Mid-Year Budget Reductions & Restricting the Rate of Expenditures) Any appropriations made herein or by special act now or hereafter, are hereby declared to be maximum, conditional and proportionate, the purpose being to authorize expenditures not to exceed the amounts named herein, if necessary, but only in the event the aggregate revenues available during the period for which the appropriations are made are sufficient to pay them in full. The State Budget and Control Board is directed to survey the progress of the collection of revenue and the expenditure of funds by all agencies, departments and institutions. If the Budget and Control Board determines that a year-end aggregate deficit may occur by virtue of a projected shortfall fall in anticipated revenues, it shall utilize such funds as may be available and required to be used to avoid a year end deficit and thereafter take such action as necessary to restrict the rate of expenditure of all agencies consistent with the provisions of this section. No institution, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this Act shall be discontinued, deleted, or deferred by the Budget and Control Board. Any reduction of rate of expenditure by the Board, under authority of this Act, shall be applied as uniformly as may be practicable except that no reduction shall be applied to funds encumbered by a written contract with an agency not connected with the State Government. No such reduction shall be ordered by the State Budget and Control Board while the General Assembly is in session without first reporting such necessity to the General Assembly and the General Assembly has taken no action to prevent the reduction within five statewide session days of formal written notification.

As far as practicable all departments, institutions, and agencies of the State are hereby directed to budget and allocate appropriations as quarterly allocation so as to provide for operation on uniform standards throughout the fiscal year and in order to avoid an operating deficit for the fiscal year. It should be recognized that academic year calendars of state institutions will affect the uniformity of the receipt and distribution of funds during the years. The Comptroller General or the Office of State Budget shall make such reports to the Budget and Control Board as they deem advisable on any agency which is expending authorized appropriations at a rate which predicts or projects a general fund deficit for the agency. The Budget and Control Board is authorized and directed to require any such agency, institutions or department to file a quarterly allocations plan and is further authorized to restrict the rate of expenditures of the agency, institution or department if the Board determines that a deficit may occur. It is the responsibility of any such agency to develop a plan, in consultation with the Budget and Control Board, that eliminates or reduces a deficit. Should the Budget and Control Board make a finding that the cause of and likelihood of a deficit is unavoidable due to factors which are wholly outside of an agency's control, then the Board may determine that the recognition of an agency deficit is appropriate and shall notify the General Assembly of such action or the presiding officer of the House and Senate if the General Assembly is not in session. Upon receipt of such notification from the Budget and Control Board, the General Assembly may authorize supplemental appropriations from any surplus revenues which existed at the close of the previous fiscal year. If the General Assembly fails to take action, then the finding of the Budget and Control Board shall stand, and the actual deficit at close of the fiscal year shall be reduced as necessary from surplus revenues or surplus funds available at the close of the fiscal year in which the deficit occurs and from funds available in the Capital Reserve Fund and General Reserve Fund, as required by the Constitution. If the Budget and Control Board finds that the likelihood and cause of a deficit is the result of agency management, then the bond of State officials responsible for management of the agency involved shall be held liable therefor and the Board shall notify the Agency Head Salary Commission of such finding. In the case of a finding that a projected deficit is the result of the management of the agency, the Budget and Control Board shall take immediate steps to curtail agency expenditures in such a manner so as to bring expenditures in line with authorized appropriations and avoid a year end operating deficit.

004104

EXHIBIT

JAN 10 1995

11

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

STATE BUDGET & CONTROL BOARD

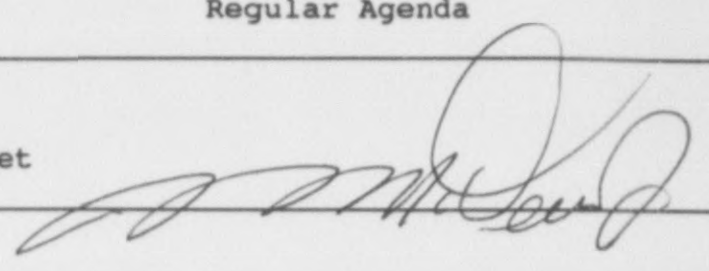
95-9

Meeting Scheduled for: January 10, 1995

Regular Agenda

1. Submitted By:

(a) Agency: Office of State Budget

(b) Authorized Official Signature: 

2. Subject: Notification of Potential Deficit from the Office of Appellate Defense.

3. Summary Background Information: The Office of Appellate Defense has notified the State Budget and Control Board of a potential General Fund deficit of \$94,296. The deficit has been caused by growing printing costs associated with increased appeal activity. Supreme Court Rule 209 requires that fifteen copies of the Record on Appeal be submitted with each appeal. Ten copies are permitted in non-capital cases. If an oral argument is granted, an additional five copies of the transcript must be furnished to the Court. Supreme Court Rule 227 requires two copies of the appendix in each post-conviction appeal.

The Office of Appellate Defense has not been able to meet all financial obligations within its allotted budget since Fiscal Year 1991-92 when the agency's budget was reduced 7.3%. Since that time, the Office has received fiscal assistance each succeeding year from the Board through some form of deficit recognition. In each of those years, the Office requested increased funding from the General Assembly, but no increase was granted.

Proviso 17G.36 of the Fiscal Year 1994-95 Appropriation Act sets forth a procedure for addressing agencies with potential General Fund deficits. This proviso assigns the Board the task of determining the likelihood of a deficit and determining whether the cause of the deficit is unavoidable due to factors which are wholly outside of an agency's control. If the Board finds the deficit is unavoidable due to factors which are wholly outside of an agency's control, the findings are transmitted to the General Assembly.

Per the instructions set out in Proviso 17G.36 of the Fiscal Year 1994-95 Appropriation Act, the Office of State Budget recommends that the Board determines that the deficit is wholly outside of the agency's control, and notify the General Assembly of the Board's findings.

4. What is Board asked to do? Determine that the deficit is unavoidable due to factors wholly outside of the agency's control, recognize the potential deficit, and notify the General Assembly of the Board's findings.

004105

5. What is recommendation of Board Division involved?

Mike Shealy

The Division recommends that the Board determine that the deficit is unavoidable due to factors wholly outside of the agency's control, recognize the potential deficit, and notify the General Assembly of the Board's findings.

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

(a) Authorized Signature: _____

(b) Division/Agency Name: _____

7. Supporting Documents:

(a) List Those Attached:

- (1) Letter from Mr. Daniel T. Stacey, Esq., to Dr. Luther F. Carter, with attachments.
- (2) Memorandum from Cheryl Morris to Mike Shealy analyzing the potential deficit.

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

WPDOCS\A011095A

004106

EXHIBIT

JAN 10 1995

11

STATE BUDGET & CONTROL BOARD

SOUTH CAROLINA OFFICE OF APPELLATE DEFENSE

Daniel T. Stacey
Chief Attorney
Joseph L. Savitz, III
Deputy Chief Attorney

1122 Lady Street, Suite 940
Columbia, S.C. 29201-3243

Telephone: (803) 734-1330
Fax: (803) 734-1397

Wanda H. Haile
Senior Assistant Appellate Defender
Robert M. Pachak
Robert M. Dudek
M. Anne Pearce
Lisa T. Gregory
Lesley M. Coggiola
Assistant Appellate Defenders

December 20, 1994

Dr. Luther F. Carter
Executive Director, State
Budget and Control Board
Edgar Brown Building, Suite 525
Columbia, SC 29201

Dear Dr. Carter:

The purpose of this letter is to call your attention to anticipated deficit in the funding of our agency. I have attached a list of estimated projected expenditures to the end of our fiscal year, which shows an estimated fiscal year 1994 deficit of \$111,865.26. The major causes of our deficit arise from underfunding of printing of appellate transcripts and in rent escalation. I have attached a copy of our lease and a copy of our annual report.

As can be seen, our caseload has increased from 46 for each attorney in the 1985-86 fiscal year to over 100 cases per attorney currently.¹ Additionally, this office has experienced a number of statewide grand jury and death penalty cases which have transcripts in the thousands of pages. The Supreme Court Rule 209 requires fifteen copies of the Record on Appeal with each appeal. We are permitted to file only ten in a non-capital case, unless oral argument is granted, in which case an additional five copies of the transcript must be reproduced and furnished to the Court. Rule 227 requires service of two copies of the appendix in each post-conviction appeal. Our lease provides for escalating rent and additional funding has not been provided to meet this expense.

004107

¹A recommended caseload is 25 cases per attorney per year. National Advisory Commission on Criminal Justice Standards and Goals, 1973.

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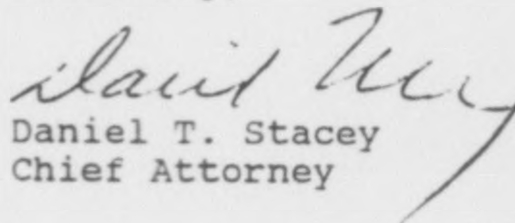
Budget & Control Board

Dr. Luther F. Carter
December 20, 1994
Page 2

Essentially, our agency is doing over twice the work that it did in years past without any increase in personnel. The office performs the constitutionally-mandated function of providing indigent appeals pursuant to S.C. Code §17-4-10 et seq.

Last year our office aggressively pursued additional funding for two attorneys, support for them, and for funding to eliminate our deficit. A copy of our budget request is attached. Our funding request was ultimately not passed by the legislative conference committee. Our budget for fiscal year 1994 was \$758,736.00, plus \$70,687.00 in supplemental appropriation. We retained 839 appeals. Therefore, the cost of the taxpayers was approximately \$988.00 per appeal, including printing. This is a tremendous bargain, resulting from the hard work of our agency personnel. The cost of having this handled by private counsel would be greatly in excess of this. It is our responsibility to file timely appeals with the State Supreme Court. We are hopeful to renegotiate our lease to effect savings. Other potential areas could involve layoffs or furloughs, however, this office must meet the deadlines of the Supreme Court rules, and with only 17 employees such drastic measures would materially impair the constitutional function of our office..

Sincerely,


Daniel T. Stacey
Chief Attorney

DTS/sag

Enclosures

004108

EXHIBIT

JAN 10 1995

11

STATE BUDGET & CONTROL BOARD

12/13/94

Estimate of Projected Expenditures

Contractual Services

Printing	8 months @ \$10,000.00	est. 80,000.00
Phone	8 months @ 900.00	est. 7,200.00
Pager	7 months @ 26.46	185.22
		Approx. 87,000.00

Supplies

Office Supplies	est. 3,500.00
Binder Strips & Toner Cart.	est. 1,500.00
Postage	est. 2,500.00
Approx. 7,500.00	

Fixed Charges

Office Rent	6 months @ \$5,910.75	35,464.50
Xerox		3,851.82
Xerox additional copy charge		est. 1,800.00
		Approx. 41,000.00

Travel	est. 2,500.00
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Library	est. 4,500.00
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OPERATING BUDGET

Estimated expenditures:	\$142,500.00
Available funds:	30,634.74
Estimated FY95 deficit:	\$111,865.26

004109

Estimate of Profected Expenditures
12/13/94
Page 2

Personnel

Chief Attorney

1 period @ \$2,175.29	
12 periods @ 2,294.91	\$29,714.21
	Avail. 29,416.81
	Balance (297.40)

Classified and Temp.

13 periods @ \$18,978.80	\$246,724.40
	Avail. 258,953.08
	Balance 12,228.68

Personnel Balance

\$11,931.28

Employer Contributions

est.	\$47,605.00
Avail.	53,245.92

Contributions Balance

approx. \$5,640.92

004110

also helpful for managers of defender offices to encourage their attorneys to make known any concerns they have regarding excessive workloads.¹⁰ In addition, in some instances it may be useful to arrange for independent assessments of workload levels to be conducted by independent consultants.¹¹

The standards of the National Advisory Commission, first developed in 1973, have proven resilient over time, and provide a rough measure of caseloads. They recommend that an attorney handle no more than the following number of cases in each category each year:

- 150 felonies¹² per attorney per year; or
- 400 misdemeanors per attorney per year; or
- 200 juvenile cases per attorney per year; or
- 200 mental commitment cases per attorney per year; or
- 25 appeals per attorney per year.¹³

10. The tensions which are created between competing goals of staff and supervising attorney in a defender program are explored in Mounts, *Public Defender Programs, Professional Responsibility, and Competent Representation*, 1982 WEC. L. REV. 473. See also Klein, *The Relationship of the Court and Defense Counsel: The Impact on Competent Representation and Proposals for Reform*, 29 BOST. COL. L. REV. 531 (1988).

11. Several significant workload and caseload studies have been performed in recent years. See MAXIMUS, *DESIGN A WORKLOAD MEASUREMENT AND DEVELOP WORKLOAD/CASELOAD STANDARDS* (New York Legal Aid Society, 1989); NATIONAL CENTER FOR STATE COURTS AND THE SPANGENBERG GROUP, *WORKLOAD AND PRODUCTIVITY STANDARDS: A REPORT TO THE OFFICE OF THE STATE PUBLIC DEFENDER [OF CALIFORNIA]* (July 28, 1989); THE SPANGENBERG GROUP, *CASELOAD/WORKLOAD STUDY FOR THE STATE PUBLIC DEFENDER OF WISCONSIN* (Final Report, Sept. 1990); THE SPANGENBERG GROUP, *WEIGHTED CASELOAD STUDY FOR THE STATE OF MINNESOTA BOARD OF PUBLIC DEFENSE* (Draft, Jan. 1991).

12. The standard does not refer to capital representation. Thus, felonies referred to here do not include death penalty cases.

13. NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS, *REPORT* 13.12 (1973). These standards were recently endorsed by an ABA Committee studying the criminal justice system, with slight modification. While supporting the standards in all other categories, the Committee recommended that attorneys handle no more than 300, not 400, misdemeanors per year. ABA SPECIAL COMMITTEE ON CRIMINAL JUSTICE A FREE SOCIETY, *CRIMINAL JUSTICE IN CRISIS* 43 (1989). The Washington (State) Defender Association also adopted a variation of the national standards, with 300 misdemeanors and 250 juvenile or civil commitment cases per attorney per year. WASHINGTON DEFENDER ASSOCIATION, *STANDARDS FOR PUBLIC DEFENSE SERVICES, STANDARD THREE* (Oct. 1989). The modified number of misdemeanor cases seems particularly apt when it is considered that the original standard was adopted before the full impact of the U.S. Supreme Court's decision in *Argersinger v. Hamlin*, 407 U.S. 25 (1972).

Such an approach presents the obvious difficulty that not all felonies are of equal complexity and not all lawyers are of equal ability or have access to identical supporting services. Practices and policies, as well as court capacity, vary from jurisdiction to jurisdiction. In contrast, the National Legal Aid and Defender Association avoids any reference to precise numbers of cases that can be handled.¹⁴ However, it emphasizes that excessive workloads must be curtailed and that defender organizations must vigorously pursue alternatives when the numbers of persons requiring representation exceed the capacity of their staffs.

Workload in capital cases creates extraordinary difficulties in every jurisdiction in which the death penalty can be imposed.

Time requirements in such cases vastly exceed those of noncapital felony cases.¹⁵ In some states where death row populations are high, the situation has reached crisis proportions. After conducting a national survey, for example, attorneys in Florida arrived at an annual caseload standard of five cases per attorney when the defendant was not under a warrant of death, and three cases per attorney when a warrant for execution had been issued.¹⁶ In California, where the Office of the State Public Defender handled capital appeals in the California Supreme Court, one study concluded that the attorneys handling such cases should be responsible for only two to three briefs per year in such cases.¹⁷

Once the determination is made that quality representation is impossible due to inordinate workload, a variety of options are available. If

14. NLADA, NATIONAL STUDY COMMISSION ON DEFENSE SERVICES 5.1, 5.3 (1976); NLADA, STANDARDS FOR DEFENDER SERVICES 4.1 (1976).

15. A compilation of recent state and national data, for example, found that attorneys in capital cases spent an average of 400 to 500 hours in representation at trial in state court, and that the average total time spent on a capital case, from trial through all petitions to the United States Supreme Court, averaged between 1412 and 1710 hours. Wilson and Spangenberg, *State Post-Conviction Representation of Defendants Sentenced to Death*, 72 JUDICATURE 331, 336, Table 4 (1989).

16. THE SPANGENBERG GROUP, A CASELOAD/WORKLOAD FORMULA FOR FLORIDA'S OFFICE OF THE CAPITAL COLLATERAL REPRESENTATIVE: EXECUTIVE SUMMARY, Table 1 (Feb. 1987). These caseloads, it should be noted, were based on the allocation of one investigator and one legal secretary per every two attorneys. *Id.*, at Table 2. Even these standards have not ended the litigation over the appropriate limits on capital caseloads in Florida public defender offices. *In re Order on Prosecution of Criminal Appeals by the Tenth Judicial Circuit Public Defender*, 561 So. 2d 1130 (Fla. App. 1990).

17. Based on a work unit theory of twenty-six units per experienced attorney per year, the formula put the value of a brief in a capital case at nine units. NATIONAL CENTER FOR STATE COURTS AND THE SPANGENBERG GROUP, WORKLOAD AND PRODUCTIVITY STANDARDS. A REPORT TO THE OFFICE OF THE STATE PUBLIC DEFENDER 82-93 (July 28, 1989).

APPELLATE PRACTICE

Rule 209

citations. There shall be a reference either to the page of the brief or to an issue to which the citations pertain, but the letter shall, without argument, state the reasons for the supplemental citations. Any response shall be made promptly and shall be similarly limited.

(8) *Form.* All briefs shall comply with the requirements of Rule 238, except that the cover of initial briefs may be made of white paper of not less than twenty pound weight and the initial briefs shall not be bound but shall be securely stapled or fastened on the top left hand corner.

[Adopted effective September 1, 1990; amended effective July 1, 1993.]

**RULE 208. DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

(a) *Time to Serve and File.* At the same time a party serves his initial brief(s) under Rule 207, he shall also serve on all parties to the appeal a Designation of Matter to be Included in the Record on Appeal which shall set forth with specificity those parts of the transcript, pleadings, orders, exhibits, or other materials which he proposes to include in the record on appeal. One copy of this Designation with proof of service shall immediately be filed with the Clerk of the Supreme Court.

(b) *Content.* The Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 209(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal.

(c) *Certification.* The Designation shall be accompanied by a certificate signed by the party's counsel of record that the Designation contains no matter which is irrelevant to the appeal.

[Adopted effective September 1, 1990.]

004112

RULE 209. RECORD ON APPEAL

(a) *Time for Service.* Within thirty (30) days after service of the last brief, the appellant shall serve three (3) copies of the Record on Appeal on each party who has served a brief. Proof of service of the Record shall be immediately filed with the Clerk of the Supreme Court.

(b) *Time for Filing.* The appellant must file with the Clerk of the Supreme Court fifteen (15) copies of the Record on Appeal no later than the date his brief(s) are due under Rule 210. The appellate court may require an appellant to file additional copies of the Record on Appeal.

(c) *Content.* The Record on Appeal shall include all matter designated to be included by any party under Rule 208 and shall comply with

the requirements of Rule 238. The Record shall not, however, include matter which was not presented to the lower court or tribunal. Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, pleadings, transcript, charges, exhibits and other materials or documents, and a certificate by appellant. Each page of the Record on Appeal shall be numbered consecutively beginning with the index. Where a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included. When a portion of an order, judgment, or pleading is to be included in the Record on Appeal, the entire order, judgment, or pleading shall be included in the Record, to include the caption and signature; provided, however, that the portion of a pleading showing verification or service shall not be included unless relevant to the appeal. If the original court reporter's numbering has been deleted, the Record on Appeal shall contain ellipses or other notation indicating when pages of the court reporter's transcript have been omitted.

Where witness testimony is included in the Record on Appeal, the first page of each witness's direct, cross, redirect and recross examination must show the name of the witness, the phase of examination and the name of the counsel conducting the examination. If this information is not already reflected on the page, the top of the page shall be annotated with the required information in the following form: John H. Doe—Direct (Cross) (Redirect) (Recross) Examination by Mr. Smith.

(d) **Title.** The title page shall contain the caption as set forth in Rule 238. Nothing shall be printed on the title page except the caption.

(e) **Index.** Every Record on Appeal shall contain an index to the principal matters therein to include orders, judgments, pleadings, pre-trial matters, opening statements, testimony, motions, closing arguments, jury charges, post-trial motions and exhibits. For witness testimony, the index shall show the pages on which direct, cross, redirect and recross examination begins.

(f) **Exhibits.** Photographs, plats and diagrams, and other paper exhibits shall be inserted in the Record on Appeal where they can reasonably be reduced or drawn to a size which permits them to be printed and inserted in the Record on Appeal, without folding more than one time. Where they are larger, or do not reasonably lend themselves to accurate reproduction, they need not be included in the Record on Appeal, but shall be filed separately. All exhibits other than paper exhibits must be retained in the trial court and delivered to the appellate court only upon receipt of an order from the clerk of the appellate court.

(g) **Certificate of Counsel.** Appellant or his counsel shall certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

EXHIBIT

JAN 10 1995

11

STATE BUDGET & CONTROL BOARD

APPELLATE DEFENSE BUDGET INFORMATION

1. Five year operating budget history:

	Appropriation	Expenditures
Fiscal Year 1989-1990	\$215,025	\$205,896
1990-1991	207,444	206,895
1991-1992	200,627	214,967
1992-1993	174,995	251,261
1993-1994	138,794	projections attached

Proposed Fiscal year 1994-1995 Appropriation - \$130,569*

*Includes Proviso 17.D3 reduction. Ways and Means Bill suggests an additional one percent reduction making FY95 Operating Budget \$122,621.

2. Agency Case Assignment History:

Appellate Defense staffs eight full time attorneys including the Agency Director.

FISCAL YEAR	AVERAGE ATTORNEY CASELOAD
1985-1986	46 cases per attorney
1989-1990	77 cases per attorney
1992-1993	102 cases per attorney

3. Request for Additional Funding:

POSITION	SALARY AND EMPLOYER CONTRIBUTIONS
(2) Attorney III	\$83,208.00
(1) Admin. Spec. C	\$20,531.00

1222 square feet of additional office space at \$13.50 per foot - \$16,497.00.

Furnishings, Computerization and incidental supplies must be included.

004114

1/31/94

Estimate of Projected Expenditures through 6/30/94

Contractual Services

Printing	6 months @ \$10,000.00	est.	60,000.00
Phone	6 months @ 1,100.00	est.	6,600.00
Pager	5 months @ 26.46		132.30
		Approx.	66,000.00

Supplies

Office Supplies	est.	2,000.00
Binder Strips & Toner Cart.	est.	1,500.00
Postage	est.	3,000.00
	Approx.	6,500.00

Fixed Charges

Office Rent	4 months @ \$5,472.92	
	1 month @ \$5,910.75	27,802.43
Xerox		3,209.85
Xerox additional copy charge	est.	1,800.00
	Approx.	33,000.00

Travel	est.	2,500.00
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Library	est.	4,000.00
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Equipment - Upgrade of Agency Computer System	Approx.	5,000.00
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OPERATING BUDGET

Estimated expenditures:	\$117,000.00
Available funds:	10,432.09 (as of 2/1/94)
Estimated FY94 deficit:	\$106,000.00

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EXHIBIT

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

SOUTH CAROLINA OFFICE OF APPELLATE DEFENSE

Daniel T. Stacey
Chief Attorney
Joseph L. Savitz, III
Deputy Chief Attorney

1122 Lady Street, Suite 940
Columbia, S.C. 29201

Telephone: (803) 734-1330
Fax: (803) 734-1397

Wanda H. Haile
Senior Assistant Appellate Defender
Tara D. Shurling
Robert M. Pachak
Robert M. Dudek
M. Anne Pearce
Lisa T. Gregory
Assistant Appellate Defenders

December 2, 1993

Mr. Charles A. Brooks, Jr.
State Budget and Control Board
State Budget Division
Edgar Brown Building, Suite 525
Columbia, South Carolina 29201

Dear Mr. Brooks:

The South Carolina Office of Appellate Defense is charged with the responsibility of providing legal representation at the appellate level for indigent criminal defendants in the State of South Carolina. In Fiscal Year 1993-1994 The Office of Appellate Defense has been appropriated \$138,794 in total agency operating expenses, representing approximately seventeen percent of allocated funds. While this agency has worked diligently to maintain expenditures within existing resources, current funding has proven inadequate and will undermine the agency's ability to perform its duties as mandated by the United States Constitution, and the South Carolina Legislature.

Well over fifty percent of our operating expenses are incurred in the physical preparation, printing and filing of the legal materials which the South Carolina Supreme Court requires in every criminal appeal. Cases assigned to this agency have increased by more than twenty-five percent since Fiscal Year 1990-1991, and have more than doubled since 1986. Necessary expenditures with the Division of Information Resource Management Print Shop exceeded \$120,000 in Fiscal Year 1993. The fixed cost of office rental for Fiscal Year 1994 will exceed \$65,000. This includes a second year of unfunded lease escalation.

The Office of Appellate Defense has operated in deficit since Fiscal Year 1992. During Fiscal Year 1992-1993, necessary agency operating expenses reached more than \$251,000. The agency has made every effort to work within existing resources. We have eliminated law clerks, the Westlaw automated legal research computer, and reclassified an attorney position, which had been left unfilled for

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Charles A. Brooks, Jr.
December 2, 1993
Page 2

more than a year in an effort to reduce the agency deficit. With an ever-increasing caseload it is anticipated that necessary operating expenses will increase accordingly. Priority request is made for funding to meet, minimally, the constitutionally and statutorily-mandated obligations to its clients.

A priority two request is made for Personal Services funding in the amount of \$78,000, representing the minimum salaries of two Attorney II and one Administrative Specialist C positions along with estimated related employer contributions. Since 1986, this agency had experienced an enormous increase in caseload, with no increase in attorney staffing. During Fiscal Year 1992-1993, the Office of Appellate Defense was assigned 814 new cases. This figure represents an average increase of almost ten percent since 1986. Competent appellate representation of the agency's indigent clients will simply not be possible without corresponding staffing increases.

The Office of Appellate Defense is currently housed in 5254 square feet of the NBSC Building on Main Street. This existing space requires our investigative staff to share one office, and allows for absolutely no expansion. We hold an option for adjoining office space through our lease with Columbia Tower Associates. An additional \$16,497 represents 1222 square feet of office space at the Fiscal Year 1994-1995 lease rate of \$13.50 per foot. This additional square footage will properly house our current staff plus requested new positions.

Denial of requested funding increases will absolutely result in the agency's inability to physically produce its Constitutionally required work product. Additionally, denial of funding may result in the loss of experienced staff attorneys. Such loss will preclude the agency's ability to provide effective assistance of counsel.

For these reasons, we respectfully request your careful consideration of additional funding for this agency. We are willing to cooperate fully with the State Budget and Control Board in alleviating the agency's fiscal problem, and would welcome the opportunity to further discuss this matter.

Sincerely,

Daniel T. Stacey
Chief Attorney

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MEMORANDUM

TO: Mike Shealy
Assistant Director, Office of Budgets

FROM: Cheryl H. Morris
Budget Analyst

Cheryl H. Morris

SUBJECT: APPELLATE DEFENSE DEFICIT FOR 1994-95

DATE: December 21, 1994

Attached is my analysis on the status of the Office of Appellate Defense's 1994-95 budget and their deficit situation. Please let me know if I can provide additional information.

/cm
Enclosure

004118

EXHIBIT

JAN 10 1995

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OFFICE OF APPELLATE DEFENSE
ANALYSIS OF PROJECTED DEFICIT
DECEMBER 21, 1994

STATE BUDGET & CONTROL BOARD

The Office of Appellate Defense's letter of December 20, 1994 to Dr. Fred Carter, Executive Director of the Budget and Control Board, estimated a deficit of \$111,865.26 in 1994-95 because of printing appellate transcripts and rent escalation.

STATUTORY AND CONSTITUTIONAL MANDATE FOR APPELLATE DEFENSE

The statutory basis for the Office of Appellate Defense is S. C. Code 17-4-10 et seq. This statutory obligation is in turn based on the state and federal constitutional requirements that all indigent criminal defendants be competently represented by counsel on appeal from their convictions. U. S. Constitution, Amend VI; Douglas v. California, 372 U.S. 353 (1963) (constitutional right to appellate counsel); Griffin v. Illinois, 351 U.S. 12 (1956) (indigent criminal appellant has right to free transcript). In addition, federal due process principles require that indigent prisoners have meaningful and effective access to the courts, Ross v. Moffitt, 417 U.S. at 600 (1974), and the most economical and efficient way of providing such access is through appointment of counsel. Finally, United States Supreme Court and South Carolina Supreme Court decisions make abundantly clear that court-appointed appellate counsel must actually perform effectively and competently in each case. Evitts v. Lucey, 469 U.S. 387 (1984). The overall effect of these constitutional rules and court decisions is that each state, including South Carolina, must provide a meaningful appeal and access to the courts to every criminal defendant--including a transcript and a lawyer with enough experience, training and time adequately to represent him on appeal--regardless of the defendant's ability to pay.

Section 17-4-70 of the South Carolina Code of Laws, 1976 authorizes the Office of Appellate Defense to represent indigent persons in appeals from convictions in a trial court. The agency represents cases from misdemeanors through death penalties.

BACKGROUND INFORMATION

I have reviewed the agency's total funds and would like to offer the following background information.

The Office of Appellate Defense has not been able to fully fund its expenditures since state funded agencies were reduced 7.3% in FY 1991-92. In FY 1991-92 and FY 1992-93, the State Budget Office was directed to work directly with small agencies in assisting with budgetary problems. In FY 1993-94 different guidelines were followed and the Budget Office did not assist the small agencies. The Budget and Control Board addressed the situation by officially recognizing the Office of Appellate Defense at its February 16, 1994 meeting with a projected deficit of approximately \$85,540. (The agency's year-end deficit actually amounted to \$70,687.) The agency did not receive additional new funds for FY 1994-95 even though the Senate recommended \$200,000.

ANALYSIS OF CURRENT BUDGET

Based on an analysis of Appellate Defense's current and projected expenditures, this agency is expected to incur an estimated deficit of \$94,296. The agency has sufficient personnel funds; however, the estimated average monthly operating expenses of \$17,813 will total \$142,500 by year-end. The major portion of this expense is \$80,000 for printing costs associated with printing case transcripts and non-state office rent of \$35,400.

004119

1994-95 ADJUSTED GENERAL FUND APPROPRIATIONS:

Operating Appropriations	\$ 772,893
Expenditures through 12/16/94	<u>-421,797</u>
AVAILABLE AUTHORIZED BALANCE	\$ 351,096
 ESTIMATED EXPENDITURES-REMAINING YEAR	 <u>-445,392</u>
PROJECTED DEFICIT	<u>\$- 94,296</u>

The agency receives only general fund dollars and does not have access to Other Funds.

CASE LOAD RETAINED BY AGENCY

The case load of the agency has increased from 754 cases retained by the agency in 1991-92 to 838 cases in 1993-94. Since July 1994, a total of 402 cases have been retained by the agency. At present, the 8 attorneys employed by the agency, including the agency head, have over 100 cases each. (The National Advisory Commission on Criminal Justice Standards and Goals, 1973, recommends a caseload of 25 cases per attorney per year.)

Supreme Court Rule 209 requires that 15 copies of the Record on Appeal be submitted with each appeal. Ten copies are permitted in a non-capital case and if an oral argument is granted, an additional 5 copies of the transcript must be furnished to the Court. Supreme Court Rule 227 requires service of two copies of the appendix in each post-conviction appeal.

SUMMARY

The Office of Appellate Defense is required by the above mentioned laws to provide competent counsel to indigent criminal defendants on appeal from their convictions. A person's "right to appeal" cannot be denied. Before the Office of Appellate Defense processed these cases, public defenders were used. If this Office does not continued to take care of this need, that will not stop an individual's "right to appeal." It means that the appeal will be serviced by another entity.

The Office of Appellate Defense will be short of operating funds when they start processing monthly bills now on hand. I suggest that the agency go ahead and move any anticipated surplus funds from Personal Service and Employer Contributions into the Other Operating Expense account in order that existing bills can be paid. Assistance is requested from the Budget and Control Board on the agency's anticipated deficit for the remainder of the fiscal year.

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EXHIBIT

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

SUGGESTIONS ON ALTERNATIVES TO DEFICIT

The following are possible suggestions on alternatives to the Office of Appellate Defense's deficit:

1. Legislation can be enacted that would require printing costs to be shared by other entities, such as the courts. This alternative only shifts the obligation to another state entity so state funds would still be needed.
2. Activate a reduction in force. In order for this to be an effective measure, termination would need to be enacted immediately. The agency has a total of 17.39 positions with 17 of them currently filled. To save enough funds to assist the agency would require termination of about half of the agency's work force. Of course termination of the employees would hinder the effectiveness of the agency's mission.
3. Request that the Budget and Control Board recognize that there is a deficit beyond the agency director's control and request that the General Assembly address the situation.

In my opinion, the operation of the agency cannot be stopped without risking a potential contempt of court citation given legal precedence.

004121

OFFICE OF APPELLATE DEFENSE HISTORICAL DATA FOR 1991-1994:

EXPENDITURES FOR THE PAST THREE YEARS:

	<u>1991-92</u>	<u>1992-93</u>	<u>1993-94</u>
General Fund Expenditures	852,705	872,191	877,458
Other Funds Expenditures	0	0	0
Total Funds Expenditures	852,705	872,191	877,458
Lapsed Appropriations	189*	12,753*	0
Carried Forward	0	0	0

*Lapsed funds:

1991-92: \$32,000 was transferred to agency to assist with expenses through year-end but agency required only \$31,811; therefore, \$189 lapsed to the General Fund;

1992-93: \$81,000 was transferred to agency to assist with expenses through year-end but agency required only \$68,247; therefore, \$12,753 lapsed to the General Fund.

AGENCY REQUESTS THROUGH THE BUDGET PROCESS:

1991-92: requested \$86,906/1.00 FTE -- NO INCREASE RECEIVED
 1992-93: requested \$62,388 -- NO INCREASE RECEIVED
 1993-94: requested \$41,059 -- NO INCREASE RECEIVED
 1994-95: requested \$202,583/2.00 FTES: (\$112,000 TO MEET MINIMUM FUNDING FOR AGENCY; \$90,583 AND 2.00 FTES (Attorney II and Adm Spec) FOR INCREASED CASELOAD -- NO INCREASE RECEIVED

OTHER FUNDS REVENUE:

The Office of Appellate Defense does not have access to revenue generated by other funds.

<u>CASE LOAD INFORMATION:</u>	<u>1991-92</u>	<u>1992-93</u>	<u>1993-94</u>	<u>July-Dec94</u>
CASES RETAINED BY AGENCY	754	814	838	402
Direct	530	430	483	247
Post Conviction	224	384	356	155
AVERAGE COST PER CASE	\$1,073	\$1,018	\$ 988	NA
AVG PRINTING COST PER CASE	\$ 124	\$ 150	\$ 120	\$ 110 est.

(Direct Appeals go to the S. C. Supreme Court or the Court of Appeals; Post Conviction Appeals occur after a person has gone to the S.C. Supreme Court.)

The case load represents new cases opened in a fiscal year. However, there are overlapping cases every year that will increase the total number of cases being handled.

The agency represents indigent persons in misdemeanor cases through death penalty cases. They also handle appeals of all the public defender clients convicted in the state who desire to appeal.

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EXHIBIT

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

There are 25 Death Penalty cases currently pending. All Death Penalty cases--direct or post conviction--require 25 copies of the records to be submitted to the Supreme Court. All cases scheduled for Oral Argument with the Supreme Court require additional copies.

Printing costs can vary depending upon the number of copies made and the size of the transcript. Some transcripts can be thousands of pages. (DIRECT APPEALS REQUIRE 15-20 COPIES; POST CONVICTION APPEALS REQUIRE 6 COPIES.)

Additional responsibilities have been added by the Supreme Court in which trial attorneys may now contract for service of Trial Only. This increases the case load of appeals which might have previously been the responsibility of the retained trial attorney.

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E22 APPELLATE DEFENSE
December 19, 1994

CURRENT YEAR TO DATE STATUS OF EXPENDITURES

Bal year-to-date expend per Compt Gen's report, dated: 12/16/94, \$351,096.46

TOTAL EXPENDITURES 1994-95	421,796.54	
PERSONAL SERVICES EXP	246,474.20	
EMPLOYER CONTRIBUTIONS EXP	75,388.08	
OPERATING EXPENSES EXP	99,934.26	
TOTAL AGENCY BALANCE		351,096.46
ADJUSTED AGENCY BALANCE		351,096.46
PROJECTED PERSONAL SERVICE	255,288.00	
PROJECTED EMPLOYEE BENEFITS	47,604.00	
PROJECTED OPERATING EXPENSE	142,500.00	
AGENCY NEEDS FOR REMAINDER OF YEAR		445,392.00
PROJECTED AGENCY DEFICIT FOR 1994-95		(94,295.54)

REMAINING PERSONAL SERVICES AND EMPLOYER CONTRIBUTIONS FOR FULL FUNDING

PERSONAL SERVICE:		
Year-to-date expenditures	246,474.20	
AVAILABLE BALANCE 12/16/94		267,215.80
Projected funds (\$21274pp x 12 pay pds)	255,288.00	255,288.00
BALANCE in PERSONAL SERVICE for year		11,927.80
EMPLOYER CONTRIBUTIONS:		
Year-to-date expenditures	75,388.08	
AVAILABLE BALANCE 12/16/94		53,245.92
Projected funds (\$3967pp x 12 remaining pay pds)	47,604.00	47,604.00
BALANCE in EMPLOYER CONT for year		5,641.92
REMAINING OPERATING EXPENSES FOR YEAR		
Year-to-date expenditures	99,934.26	
AVAILABLE BALANCE 12/16/94		30,634.74
Projected funds needed through 1995		142,500.00
PROJECTED DEFICIT FOR YEAR		(94,295.54)

OBJECT CODES	BAL IN ACCOUNT	PROJECTED NEED
1201 - Operating Expenses	30,634.74	142,500.00
Contractual Services		87,000.00
(Est. printing \$80,000 (8 mo x \$10,000); telephone/pager (8 mo x \$927)		
Supplies		7,500.00
(Est. of office supplies, postage)		
Fixed Charges		41,000.00
(Est. of Office Rent (6 mo x \$5,900); copier charges)		
Travel		2,500.00
Library		4,500.00

JAN 10 1995

11

STATE BUDGET & CONTROL BOARD

STATUTORY AND CONSTITUTIONAL MANDATE FOR APPELLATE DEFENSE

The statutory basis for the Office of Appellate Defense is S.C. Code §§17-4-10 et seq. This statutory obligation is in turn based on the state and federal constitutional requirements that all indigent criminal defendants be competently represented by counsel on appeal from their convictions. U.S. Const., amend. VI; Douglas v. California, 372 U.S. 353 (1963) (constitutional right to appellate counsel); Griffin v. Illinois, 351 U.S. 12 (1956) (indigent criminal appellant has right to free transcript). In addition, federal due process principles require that indigent prisoners have meaningful and effective access to the courts, Ross v. Moffitt, 417 U.S. at 600 (1974), and the most economical and efficient way of providing such access is through appointment of counsel. Finally, United States Supreme Court and South Carolina Supreme Court decisions make abundantly clear that court-appointed appellate counsel must actually perform effectively and competently in each case. Evitts v. Lucey, 469 U.S. 387 (1984). The overall effect of these constitutional rules and court decisions is that each state, including South Carolina, must provide a meaningful appeal and access to the courts to every criminal defendant--including a transcript and a lawyer with enough experience, training and time adequately to represent him on appeal--regardless of the defendant's ability to pay.

004125

EXHIBIT

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

JAN 10 1995

11

STATE BUDGET & CONTROL BOARD

CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

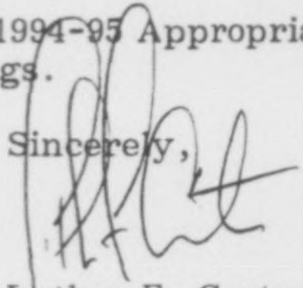
The Honorable David H. Wilkins
Speaker, House of Representatives
506 Blatt Office Building
Columbia, SC 29201

Dear Mr. Speaker:

This is to advise that the State Budget and Control Board, at its meeting on January 10, 1995, determined that a potential deficit of \$94,296 for 1994-95 in the Office of Appellate Defense is unavoidable due to factors wholly outside of the agency's control and recognized the potential deficit.

In accord with Proviso 17G.36 of the 1994-95 Appropriations Act, the Board directed that you be notified of these findings.

Sincerely,


Luther F. Carter

W
cc: Daniel T. Stacey
George N. Dorn, Jr.

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EXHIBIT

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

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

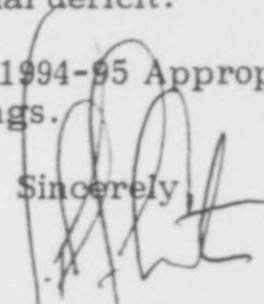
The Honorable Nick A. Theodore
President, The Senate
The State House
Columbia, SC 29201

Dear Mr. President:

This is to advise that the State Budget and Control Board, at its meeting on January 10, 1995, determined that a potential deficit of \$94,296 for 1994-95 in the Office of Appellate Defense is unavoidable due to factors wholly outside of the agency's control and recognized the potential deficit.

In accord with Proviso 17G.36 of the 1994-95 Appropriations Act, the Board directed that you be notified of these findings.

Sincerely,


Luther F. Carter

W
cc: Daniel T. Stacey
George N. Dorn, Jr.

004127

EXHIBIT

JAN 10 1995

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STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
REGULAR SESSION
ITEM NUMBER 3

AGENCY: Human Resources

SUBJECT: Grievance Regulation Revisions

Section 8-11-23 of the S. C. Code of Laws and Budget and Control Board Regulation 19-775.34 provide that the Budget and Control Board develop and promulgate rules and regulations concerning the State Employee Grievance Process. The attached revisions to existing rules and regulations clarify language, allow for more efficient administration, and comply with recent statutory changes.

A synopsis of these revisions was provided to the Board on November 3, 1994, and printed in the State Register on November 25, 1994, as required by the Administrative Procedures Act (APA). A public hearing was scheduled for December 28, 1994; however, no comments were received.

BOARD ACTION REQUESTED:

Approve the revisions to existing rules and regulations concerning the State Employee Grievance Process for submission to the General Assembly.

ATTACHMENTS:

Agenda item worksheet; Facts Sheet; Section 8-11-230, S. C. Code of Laws; B&CB Regulation 19-775.34; revised Grievance Committee Rules and Regulations; revised Personnel regulations

004128

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

For meeting scheduled for:

January 10, 1995

☐ Blue Agenda
☒ Regular Session
☐ Executive Session

1. Submitted by: (a) Agency: Office of Human Resources

(b) Authorized Official Signature

Stephen C. Osborne

2. Subject: Grievance Regulation Revisions

3. Summary Background Information:

Section 8-11-230 of the S.C. Code of Laws and Budget and Control Board Regulation 19-775.34 provide that the Budget and Control Board develop and promulgate rules and regulations concerning the State Employee Grievance Process. The attached revisions to existing rules and regulations clarify language, allow for more efficient administration, and comply with recent statutory changes.

A synopsis of these revisions was provided to the Board on November 3, 1994, and printed in the State Register on November 25, 1994, as required by the Administrative Procedures Act (APA). A public hearing was scheduled for December 28, 1994; however, no comments were received.

4. What is Board asked to do?

To approve the proposed revisions to be published in the State Register and submitted to the General Assembly.

5. What is recommendation of the Board division involved?

To approve the proposed revisions.

6. Recommendation of other office (as required)?

Office Name

Authorized
Signature

7. Supporting Documents:

List those attached:

List those not attached
but available

Facts Sheet

Section 8-11-230, S.C. Code of Laws

Budget and Control Board Regulation 19-775.34

Revised Grievance Committee Rules and Regulations

Revised Personnel Regulations

004129

EXHIBIT

JAN 10 1995

12

FACTS SHEET PROPOSED REGULATION CHANGES

STATE BUDGET & CONTROL BOARD

*The Office of Human Resources (OHR) proposes to amend State Personnel Regulations 19.706 and 19.775 which pertain to rules and procedures governing the State Employee Grievance Process.

*The purpose of the proposed changes is to clarify language, to allow for more efficient administration, and to comply with recent statutory changes. All of the changes are minimal in nature.

*The changes which are in accordance with statutory revisions include not allowing reclassifications, reassignments, and transfers to the same pay grade to be grievable; making salary decreases based on the results of EPMS evaluations to be grievable; and, only allowing lack of promotion to be grievable if the employee was qualified and applied for a position that was greater than one organizational level above the successful candidate's present level.

*Other proposed changes include giving the State Personnel Director final approval of the amount of reinstatement pay due to an employee, and requiring documents to be submitted fifteen days prior to the hearing to allow for proper review by the opposing party before they are forwarded to the State Employee Grievance Committee. These changes are in accordance with customer input.

*The synopsis of these changes was submitted to the Board on November 3, 1994, and printed in the State Register on November 25, 1994. A public hearing was scheduled for December 28, 1994; however, no comments were received.

*Upon approval by the Board, the revisions will be published in the State Register and submitted to the General Assembly.

Prepared by the Office of Human Resources 1-3-95

004120

Control Board, the State Personnel Division (hereinafter referred to as the Division), which shall be responsive to agency needs for all personnel functions and which shall implement the provisions of this article subject to the policies and direction of the Board.

The administrative head of the Division shall be the State Personnel Director who shall be appointed by the Board. The State Personnel Director may employ such staff as deemed necessary to efficiently carry out the provisions of this article within authorized funding.

The Budget and Control Board is authorized and directed to:

1. Establish procedures for the regulation of compensation of all State employees where not otherwise regulated directly by the General Assembly. Such procedures and regulations shall distinguish between two categories of positions, classified and unclassified. A uniform Classification and Compensation Plan shall be provided for such regulation of all positions in the classified service. Such additional procedures shall be provided as in its judgment adequately and equitably regulate unclassified positions.
2. Develop and revise as necessary in coordination with agencies served specifications for each position in the classified service concerning the minimum educational training, experience and other qualifications considered necessary to assure adequate performance of the duties and responsibilities. The Board and agency heads will require adherence to these specifications. The Board may waive training and experience requirements where circumstances warrant upon request and adequate justification by the agency head.
3. After coordinating with agencies served, develop fair employment policies to assure that appointments to position in the State classified service are made on the basis of merit and fitness without regard to race, sex, age, religion, political affiliation or national origin.
4. Operate a recruitment and applicant referral program as an optional service available to all agencies.
5. Validate selection procedures for the classified service in accordance with sound personnel practices and the requirements of federal law or regulation.
6. After coordination with agencies served, develop policies and programs concerning leave with or without pay, hours of work, fringe benefits (except State retirement

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benefits), employee/management relations, performance appraisals, grievance procedures, employee awards, dual employment, disciplinary action, separations, reductions in force, and other conditions of employment as may be needed.

7. Provide assistance and coordinate with the agencies served training and career development programs for State employees.
8. Enter into agreement with any political subdivision of the State to furnish services and facilities in the administration of its personnel program. Any such agreement shall provide for the reimbursement to the State of the reasonable cost of the services and facilities furnished. All political subdivisions of the State are hereby authorized to enter into such agreements.
9. Establish and maintain a central personnel data system on all State employees covered by this article, both classified and unclassified, and in coordination with agencies served, determine that data to be recorded on employees and positions and the procedures and forms to be used by all agencies in reporting data.
10. Develop a position management data system to assure conformity with Board policies and State law.
11. Delegate to the heads of the State agencies served such of the above responsibilities as may be appropriate in such form as the Board may determine.

HISTORY: 1975 (59) 212.

Cross references—

As to duties of state personnel director and State Budget and Control Board with respect to state employee grievance procedure, see §§ 8-17-310 et seq.

ALR and L Ed Annotations—

Application of state law to sex discrimination in employment. 87 ALR3d 93.

Punitive damages in actions for violations of Title VII of Civil Rights Act of 1964 (42 USCS §§ 2000e et seq.). 43 ALR Fed 208.

Sexual advances by employee's superior as sex discrimination within Title VII of Civil Rights Act of 1964, as amended (42 USCS §§ 2000e et seq.). 46 ALR Fed 224.

Sex discrimination in law enforcement and corrections employment. 53 ALR Fed 31.

ATTORNEY GENERAL'S OPINIONS

Absent individual agency restrictions, an individual may be employed as a permanent state employee and at the same time be employed by a county. 1974-1975 Op Atty Gen, No 4109, p 185.

19-775.31. Election of Chairman and Secretary of Committee.

A chairman and a secretary shall be elected from the membership of the Committee each year for a term beginning July 1. A meeting for election of officers shall be held as soon as practicable after appointments are made.

19-775.32. Presiding Officer.

The Chairman may designate some other member of the Committee to serve as the presiding officer at a particular hearing in his absence.

19-775.33. Date and Time of Hearing; Postponement.

Grievance hearings will be conducted on the date and at the time scheduled unless the Committee, acting collectively or through its Chairman or designee, grants a postponement based upon extenuating circumstances such as illness or death. If neither party has requested a postponement or a requested postponement has been denied and either party fails to appear, the hearing will be held as scheduled. In such cases, the Committee will base its decision on a review of the record and a presentation of the case by the party present.

Effect of amendment—

The 1987 amendment, effective May 22, 1987, added the words "or designee" after the word "Chairman" in the first sentence.

19-775.34. Promulgation of Regulations.

The Committee and the State Personnel Director may recommend to the Budget and Control Board that it promulgate these and other regulations as may be necessary to carry out the provisions of the State Employee Grievance Procedure Act of 1982.

ARTICLE 8 [NEW]

DATA REPORTING REQUIREMENTS PERTAINING TO SOUTH
CAROLINA GENERAL HOSPITALS

(Statutory Authority: 1976 Code §§ 44-6-170 and 44-6-200, as amended)

REG.

19-801: Financial and Utilization Data (Annual).

19-810. Medical Record Extract Information.

19-820. Penalties for Failure to Meet Requirements.

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Editor's Note—

The following regulations became effective June 22, 1990, unless otherwise noted.

19-801. Financial and Utilization Data (Annual).

A. All required items shall be reported to the Division of Research and Statistical Services (DRSS), South Carolina Budget and Control Board, for the period October first through September thirtieth by February first of the following year.

B. The formats for submission of required items are:

- (1) "Annual Hospital Financial Data Report" or other format as specified by the Division of Research and Statistical Services for financial items;
- (2) "Joint Annual Report of Hospitals" or other format as specified by the Division of Research and Statistical Services for utilization items.

C. When a format other than the Annual Report in B(1) or B(2) above is specified, the Division shall provide the format to hospitals thirty days prior to implementation of that format.

D. Financial items pertaining to patient charges shall be reported for "inpatients only" and for "all patients, inpatients and outpatients".

E. Hospitals shall maintain documentation to substantiate all items governed by R.19-801 for a period of three years from the February first deadline date.

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Budget and Control Board
Office of Human Resources
CHAPTER 19

STATE BUDGET & CONTROL BOARD

Statutory Authority: 1976 Code Section 8-11-230
State Regulation 19-775.34
Article XVIII, Subarticle 3
State Employee Grievance Committee Rules

Synopsis:

19-706. Grievances and Appeals and **19-775.** State Employee Grievance Committee Rules. These regulations set forth the rules and procedures for the administration of the State Employee Grievance Process. Amendments are necessary to comply with recent statutory changes, to allow for a more efficient administration of the grievance process and for clarification purposes. Statutory changes include: not allowing reclassifications, reassignments, and transfers to the same pay grade to be grievable; making salary decreases based on the results of Employee Performance Management System evaluations to be grievable; and only allowing lack of consideration for a promotion to be grievable if the employee was qualified and applied for a position that was greater than one organizational level above the successful candidate's present level. Changes to allow for a more efficient administration of the grievance process include: giving the State Personnel Director final approval of the amount of reinstatement pay due to an employee; and requiring documents to be submitted fifteen days prior to the hearing to allow for proper review by the opposing party before they are forwarded to the State Employee Grievance Committee. In addition, the documents submitted by both parties to the State Employee Grievance Committee will now only constitute the record on appeal from the agency's internal grievance procedure rather than being marked into evidence. Other changes are sought for clarification purposes, such as the name change from the Division of Human Resource Management to the Office of Human Resources.

Instructions: Regulations 19-706.01; 19-706.02(A); 19-706.02(C); 19-706.02(D); 19-706.02(G)(3); 19-706.02(G)(4); 19-706.02(G)(5); 19-706.02(G)(6); 19-706.03(A); 19-706.04(D)(2); and 19-706.04(D)(3) are being revised. Regulations 19-775.02; 19-775.03; 19-775.04; 19-775.05; 19-775.06; 19-775.07(A); 19-775.07(B); 19-775.08; 19-775.10; 19-775.11; 19-775.12; 19-775.15; and 19-775.34 are being revised.

Fiscal Impact Statement:

The Office of Human Resources of the Budget and Control Board estimates there will be no additional costs incurred in complying with the proposed amendments.

Statement of Need and Reasonableness:

Revisions are necessary in order to comply with recent statutory changes, to allow for more efficient administration, and to clarify language.

Summary of Assessment Report: A Preliminary Assessment Report is not applicable.

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19-775.02 Currently reads:

Proposed to read:

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Explanation:

STATE BUDGET & CONTROL BOARD

Changes Division of Human Resource Management to Office of Human Resources.

Reflects reclassifications, reassignments, and transfers to same pay grade as not grievable to conform with statutory changes.

Reflects promotions greater than one organizational level as grievable if applicant applied and was qualified but not considered for position to conform with statutory changes.

Reflects salary decreases based on EPMS evaluations as grievable to conform with statutory changes.

19.775.03 Currently reads:

Grievances shall be appealable through the Director of the Division of Human Resource Management to the State Employee Grievance Committee. The Director of the Division of Human Resource Management shall assemble all records, reports and documentation of the earlier proceedings on the grievance and review the case to ascertain that there has been full compliance with established grievance policies, procedures, and regulations within the agency involved and shall determine whether the action is grievable to the Committee. Upon receipt of appeals of questionable jurisdiction, the Director of the Division of Human Resource Management shall determine, after consultation with the Attorney General's Office, whether an action is grievable.

Proposed to read:

Grievances shall be appealable through the Director of the Office of Human Resources to the State Employee Grievance Committee. The Director of the Office of Human Resources shall assemble all records, reports and documentation of the earlier proceedings on the grievance and review the case to ascertain that there has been full compliance with established grievance policies, procedures, and regulations within the agency involved and shall determine whether the action is grievable to the Committee. Upon receipt of appeals of questionable jurisdiction, the Director of the Office of Human Resources shall determine whether an action is grievable.

Explanation:

Changes Division of Human Resource Management to the Office of Human Resources.

Removes requirement for the Director of the Office of Human Resources to consult with Attorney General's office on jurisdictional issues since this Office now relies on internal counsel for advisement.

004136

19-775.04 Currently reads:

Once an appeal has been made to the Director of the Division of Human Resource Management and has been determined to be appealable to the Committee, the Director of the Division of Human Resource Management or the Director's designee shall review the record of the internal grievance process and shall schedule appointments to discuss the grievance separately with the employee or the employee's representative, or both, and representatives of the agency to attempt to resolve the matter. If an agreement between the two parties is not reached, the Director of the Division of Human Resource Management or the Director's designee shall present tentative findings and recommendations to both parties for resolution of the grievance appeal. Each party shall submit a written response within ten calendar days setting forth acceptance or rejection of the recommendations. Any discussions by any of the parties concerned during the mediation process shall be kept confidential and shall not be used or referred to during subsequent proceedings on the appeal.

Proposed to read:

Once an appeal has been made to the Director of the Office of Human Resources and has been determined to be appealable to the Committee, the Director of the Office of Human Resources or the Director's designee shall review the record of the internal grievance process and shall schedule appointments to discuss the grievance separately with the employee or the employee's representative, or both, and representatives of the agency to attempt to resolve the matter. If an agreement between the two parties is not reached, the Director of the Office of Human Resources or the Director's designee shall present tentative findings and recommendations to both parties for resolution of the grievance appeal. Each party shall submit a written response within ten calendar days setting forth acceptance or rejection of the recommendations. Any discussions by any of the parties concerned during the mediation process shall be kept confidential and shall not be used or referred to during subsequent proceedings on the appeal.

Explanation:

Changes Division of Human Resource Management to Office of Human Resources.

19-775.05 Currently reads:

The Director of the Division of Human Resource Management shall notify Committee members, Committee Attorney and all other parties concerned of the date, time and place of grievance hearings and request their presence.

Proposed to read:

The Director of the Office of Human Resources shall notify Committee members, Committee Attorney and all other parties concerned of the date, time and place of grievance hearings and request their presence.

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JAN 10 1995

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STATE BUDGET & CONTROL BOARD

Explanation:

Changes Division of Human Resource Management to Office of Human Resources.

19-775.06 Currently reads:

The Director of the Division of Human Resource Managment shall arrange for the reproduction of pertinent files, records and papers and distribute copies to the members of the Committee that will hear the grievance and to the Committee Attorney prior to the date of the hearing. The Director of the Division of Human Resource Management shall be responsible for recording the grievance hearings and shall provide to the Committee from the resources of the Division of Human Resource Management such administrative and clerical services as may be required.

Proposed to read:

The Director of the Office of Human Resources shall arrange for the reproduction of pertinent files, records and papers and distribute copies to the members of the Committee that will hear the grievance and to the Committee Attorney prior to the date of the hearing. The Director of the Office of Human Resources shall be responsible for recording the grievance hearings and shall provide to the Committee from the resources of the Office of Human Resources such administrative and clerical services as may be required.

Explanation:

Changes Division of Human Resource Management to Office of Human Resources.

19-775.07(A) Currently reads:

The following shall apply regarding witnesses and representatives.

A. After a grievance appeal has been determined to be grievable to the Committee and has been placed on the Committee's docket, representatives for the appellant and the agency shall exchange witness lists and forward a copy of the lists to the Division of Human Resource Management no later than five (5) days prior to the hearing. Witness lists which have not been exchanged as required by this provision, will be excluded unless the Committee finds that there has been excusable neglect or that the witness(es) should be admitted in the furtherance of justice.

004138

Proposed to read:

The following shall apply regarding witnesses and representatives.

A. After a grievance appeal has been determined to be grievable to the Committee and has been placed on the Committee's docket, representatives for the appellant and the agency shall exchange witness lists and forward a copy

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Proposed to read:

Any files, records and papers requested by the Director of the Office of Human Resources from the agency should be forwarded no more than ten (10) days following the request. Any other files, records and papers submitted by either party to be forwarded to the Committee prior to the hearing must be received in the Office of Human Resources at least fifteen (15) days prior to the hearing. Those documents submitted by both parties will be provided to Committee Members prior to the hearings and considered to be the record from the agency's internal grievance procedure on appeal during the hearing.

Explanation:

Changes Division of Human Resource Management to the Office of Human Resources.

Changes timeframe to submit files, records and papers, by either party, from ten (10) days to fifteen (15) days prior to the hearing.

Changes that the documents submitted by both parties constitute the record on appeal from the agency's internal grievance procedure rather than being marked into evidence.

19-775.10 Currently reads:

The Committee Chairman or his designee is authorized to issue subpoenas for files, records, and papers deemed pertinent to any investigation, and to subpoena witnesses at the request of either party. All subpoenas to be issued relating to the hearing will be issued by the Grievance Committee. In the event that either party in a case has difficulty in obtaining a witness's agreement to testify or to produce files, records and papers, such party must request in writing the issuance of a subpoena at least ten (10) days before the date of the hearing. The request for a subpoena must include the name of the witness and/or a description sufficiently specific to identify the documents in question. The request shall be forwarded to the Division of Human Resource Management. The Chairman of the State Employee Grievance Committee, for the Committee, issues the subpoena; however, the service of the subpoena is the responsibility of the requesting party. Subpoenaed documents shall be made available at least five (5) days before the date of the hearing to the requesting party.

Proposed to read:

The Committee Chairman or his designee is authorized to issue subpoenas for files, records, and papers deemed pertinent to any investigation, and to subpoena witnesses at the request of either party. All subpoenas to be issued relating to the hearing will be issued by the Grievance Committee. In the event that either party in a case has difficulty in obtaining a witness's agreement to testify or to produce files, records and papers, such party must request in writing the issuance of a subpoena at least ten (10) days before the date of the hearing. The request for a subpoena must include the name of the witness and/or a description sufficiently specific to identify the documents in

question. The request shall be forwarded to the Office of Human Resources. The Chairman of the State Employee Grievance Committee, for the Committee, issues the subpoena; however, the service of the subpoena is the responsibility of the requesting party. Subpoenaed documents shall be made available at least five (5) days before the date of the hearing to the requesting party. When any person fails to comply with a subpoena, the requesting party is responsible for pursuing any judicial enforcement of that subpoena. Any reasonable expenses incurred by a subpoenaed witness shall be paid by the requesting party.

Explanation:

Changes Division of Human Resource Management to Office of Human Resources.

Provides that reasonable expenses incurred by a subpoenaed witness be paid by the requesting party.

Provides for the responsibility of enforcement of a subpoena with the requesting party in the event of failure to comply.

19-775.11 Currently reads:

Committee hearings shall be held in appropriate facilities within the Division of Human Resource Management, Columbia, South Carolina, unless otherwise specified by the Committee.

Proposed to read:

Committee hearings shall be held in appropriate facilities within the Office of Human Resources, Columbia, South Carolina, unless otherwise specified by the Committee.

Explanation:

Changes Division of Human Resource Management to Office of Human Resources.

19-775.12 Currently reads:

The Division of Human Resource Management shall develop standard forms to be used in all grievance procedures.

Proposed to read:

The Office of Human Resources shall develop standard forms to be used in all grievance procedures.

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Explanation:

Changes Division of Human Resource Management to Office of Human Resources.

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STATE BUDGET & CONTROL BOARD

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State Personnel Regulations

19-706.01 Currently reads:

This Regulation sets forth the rules, procedures and responsibilities for grievances and appeals in conjunction with the State Employee Grievance Committee Rules and Regulations 19-775, S.C. Code. The Director of the Division of Human Resource Management, as referred to in other Regulations, is referred to in this Regulation as the State Personnel Director to be consistent with the terminology in the State Employee Grievance Act.

Proposed to read:

This Regulation sets forth the rules, procedures and responsibilities for grievances and appeals in conjunction with the State Employee Grievance Committee Rules and Regulations 19-775, S.C. Code. The Director of the **Office of Human Resources**, as referred to in other Regulations, is referred to in this Regulation as the State Personnel Director to be consistent with the terminology in the State Employee Grievance **Procedure** Act.

Explanation:

Changes Division of Human Resource Managment to Office of Human Resources.

Uses name of Act as it appears in statute.

19-706.02(A) Currently reads:

A. Each agency head shall establish written internal grievance procedures. All provision shall fully comply with the State Employee Grievance Act, as amended, and, as provided for in the Act, be submitted to the State Personnel Director for approval.

Proposed to read:

Each agency head shall establish written internal grievance procedures. All provisions shall **comply fully** with the State Employee Grievance **Procedure** Act, as amended, and, as provided for in the Act, be submitted to the State Personnel Director for approval.

Explanation:

Grammatical change.

Uses name of Act as it appears in statute.

004143

19-706.02(C) Currently reads:

C. No employee shall be disciplined or otherwise prejudiced in employment for exercising rights under the State Employee Grievance Act.

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STATE BUDGET & CONTROL BOARD

Proposed to read:

No employee shall be disciplined or otherwise prejudiced in employment for exercising rights under the State Employee Grievance Procedure Act.

Explanation:

Uses name of Act as it appears in statute.

19-706.02(D) Currently reads:

Compensation shall not be deemed a proper subject for consideration under the grievance procedure except as it applies to alleged inequities within an agency. Compensation is not grievable if it represents a challenge to the structure of the Classification and Compensation System.

Proposed to read:

Compensation shall not be deemed a proper subject for consideration under the grievance procedure except as it applies to alleged inequities within an agency or salary decreases based on the results of EPMS evaluations. Compensation is not grievable if it represents a challenge to the structure of the Classification and Compensation System.

Explanation:

Reflects salary decreases based on EPMS as grievable to conform with statutory changes.

19-706.02(G)(3) Currently reads:

The State Personnel Director will approve the amount of reinstatement pay due the employee.

Proposed to read:

The State Personnel Director will approve the amount of reinstatement pay due the employee. That approval is not subject to administrative appeal and will constitute the final administrative decision.

Explanation:

Gives State Personnel Director final approval on reinstatement pay due to an employee.

19-706.02(G)(4) Currently reads:

The appellant and/or agency shall have the right to appeal to the Budget and Control Board the determination of the State Personnel Director

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Proposed to read:

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Explanation:

Gives the State Personnel Director final approval of reinstatement pay requests.

19-706.02(G)(5) Currently reads:

The above procedure shall be followed in reversed disciplinary actions resulting from both agency internal grievance procedures as well as grievances at the State Employee Grievance Committee level.

Proposed to read:

Explanation:

Changes this to 19-706.02(G)(4).

19-706.02(G)(6) Currently reads:

The intent of this regulation is only to make the employee whole as if the disciplinary action had not occurred.

Proposed to read:

Explanation:

Changes this to 19-706.02(G)(5).

19-706.03(A) Currently reads:

Grievances shall include dismissals, suspensions, involuntary reassignments and demotions. Promotions shall not be deemed grievances. However, where an allegation is made that the grievant was excluded from consideration for promotion to a position for which he was qualified when the promotional opportunity occurred, and the grievant applied or would have applied if he had known of the promotion opportunity, and the State Personnel Director determines that there is any material issue of fact or conclusion to be drawn from the facts of the allegation, then the promotion shall be deemed grievable. Compensation shall not be deemed a proper subject for consideration under the grievance plan except as it applies to alleged inequities within a particular agency. A reduction in force shall be appealable by an affected employee under the grievance plan only if based on inconsistent or improper application of a reduction in force policy, procedure, or plan. Reclassification shall not ordinarily be deemed grievable as a demotion. However, if an allegation is made that a reclassification is punitive and the State Personnel Director determines that there is any material issue of fact or conclusion to be

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drawn from the facts of the allegation, then the reclassification shall be deemed grievable.

Proposed to read:

Grievances shall include dismissals, suspensions, involuntary reassignments and demotions. **Reclassifications, reassignments, and transfers to the same pay grade are not considered grievances.** Promotions are not considered grievances. However, where an allegation is made that the grievant was excluded from consideration for promotion to a position **greater than one organizational level above his present level** for which he was qualified when the promotional opportunity occurred, and the grievant applied or would have applied if he had known of the promotion opportunity, and the State Personnel Director determines that there is any material issue of fact or conclusion to be drawn from the facts of the allegation, then the promotion shall be deemed grievable. Compensation shall not be deemed a proper subject for consideration under the grievance plan except as it applies to alleged inequities within a particular agency or **salary decreases based on the results of EPMS evaluations.** A reduction in force shall be appealable by an affected employee under the grievance plan only if based on inconsistent or improper application of a reduction in force policy, procedure, or plan. Reclassification shall not ordinarily be deemed grievable as a demotion. However, if an allegation is made that a reclassification is punitive and the State Personnel Director determines that there is any material issue of fact or conclusion to be drawn from the facts of the allegation, then the reclassification shall be deemed grievable.

Explanation:

Reflects reclassifications, reassignments, and transfers to same pay grade as not grievable to conform with statutory changes.

Reflects promotions greater than one organizational level as grievable if applicant applied and was qualified but not considered for position to conform with statutory changes.

Reflects salary decreases based on EPMS evaluations as grievable to conform with statutory changes.

19-706.04(D)(2) Currently reads:

2. Upon receipt of the appeals application form, notify the agency head to furnish the State Personnel Director a copy of the appellant's complete personnel file.

Proposed to read:

Upon receipt of the appeal application form, notify the agency head to furnish the State Personnel Director a copy of pertinent personnel records of the appellant, including those of the agency's internal grievance procedure.

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Explanation:

STATE BUDGET & CONTROL BOARD

Clarifies what information is to be sent from the agency to the State Personnel Director.

19-706.04(D)(3) Currently reads:

Determine whether the appeal is in order and has been filed in a timely manner and in accordance with this Regulation. Upon receipt of appeals of questionable jurisdiction, the State Personnel Director shall determine, after consultation with the Attorney General's Office, whether an action is appealable.

Proposed to read:

Determine whether the appeal is in order and has been filed in a timely manner and in accordance with this Regulation. Upon receipt of appeals of questionable jurisdiction, the State Personnel Director shall determine whether an action is appealable.

Explanation:

The provision regarding the Attorney General's office has been removed since the Office of Human Resources relies on internal counsel for advisement.

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EXHIBIT

STATE OF SOUTH CAROLINA
State Budget and Control Board STATE BUDGET & CONTROL BOARD
OFFICE OF THE EXECUTIVE DIRECTOR

JAN 10 1995

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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

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995

The Honorable David H. Wilkins
Speaker, House of Representatives
506 Blatt Office Building
Columbia, SC 29201

Dear Mr. Speaker:

Re: Regulation 19-775.34, State Employee Grievance Committee Rules

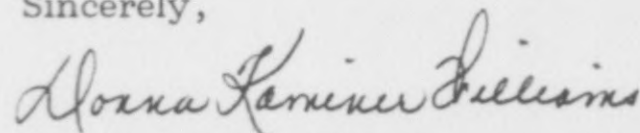
This is to advise that the State Budget and Control Board, at its meeting on January 10, 1995, approved the submission of the referenced regulations to the General Assembly for its review.

Included with the enclosed regulations are a synopsis of the regulations and a statement of their fiscal impact.

The proposed regulations, with the fiscal impact statement, were published in the November 25, 1994, State Register. A public hearing was scheduled for December 28, 1994; however, no comments were received.

Please contact Donna Traywick at 737-0977 should you have questions about these regulations.

Sincerely,



Donna Kaminer Williams
Assistant Executive Director

Enclosure

cc: Lynn Bartlett
Donna Traywick

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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

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

P.O. BOX 12444
COLUMBIA, SOUTH CAROLINA 29211
(803) 734-2320

January 10, 1995

The Honorable Nick Theodore
President, The Senate
The State House
Columbia, SC 29201

Dear Mr. President:

Re: Regulation 19-775.34, State Employee Grievance Committee Rules

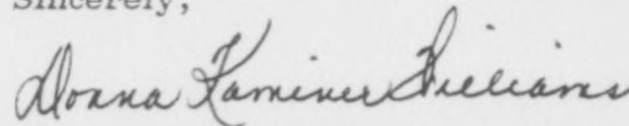
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Please contact Donna Traywick at 737-0977 should you have questions about these regulations.

Sincerely,



Donna Kaminer Williams
Assistant Executive Director

Enclosure

cc: Lynn Bartlett
Donna Traywick

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Document No. 1828
Budget and Control Board
Office of Human Resources
CHAPTER 19
Statutory Authority: 1976 Code Section 8-11-230
State Regulation 19-775.34
Article XVIII, Sub article 3
State Employee Grievance Committee Rules

Synopsis:

19-706. Grievances and Appeals and 19-775. State Employee Grievance Committee Rules. These regulations set forth the rules and procedures for the administration of the State Employee Grievance Process. Amendments are necessary to comply with recent statutory changes, to allow for a more efficient administration of the grievance process and for clarification purposes. Statutory changes include: not allowing reclassifications, reassignments, and transfers to the same pay grade to be grievable; making salary decreases based on the results of Employee Performance Management System evaluations to be grievable; and only allowing lack of consideration for a promotion to be grievable if the employee was qualified and applied for a position that was greater than one organizational level above the successful candidate's present level. Changes to allow for a more efficient administration of the grievance process include: giving the State Personnel Director final approval of the amount of reinstatement pay due to an employee; and requiring documents to be submitted fifteen days prior to the hearing to allow for proper review by the opposing party before they are forwarded to the State Employee Grievance Committee. In addition, the documents submitted by both parties to the State Employee Grievance Committee will now only constitute the record on appeal from the agency's internal grievance procedure rather than being marked into evidence. Other changes are sought for clarification purposes, such as the name change from the Division of Human Resource Management to the Office of Human Resources.

Instructions: Where revisions are indicated in multiple paragraph regulations, only revise the paragraphs listed in the instructions and do not delete the paragraphs not addressed.

Regulations 19-706.01.; 19-706.02. A; 19-706.02. C; 19-706.02. D.; 19-706.02. G. (3); 19-706.02. G. (4); 19-706.03. A.; 19-706.04. D. (2) and 19-706.04. D. (3) are being revised.

Regulations 19-775.02.; 19-775.03.; 19-775.04.; 19-775.05.; 19-775.06.; 19-775.07. A.; 19-775.07. B.; 19-775.08.; 19-775.10.; 19-775.11.; 19-775.12.; 19-775.15.; and 19-775.34. are being revised.

Text:

19-706.01. Scope and Purpose.

This Regulation sets forth the rules, procedures and responsibilities for grievances and appeals in conjunction with the State Employee Grievance Committee Rules and Regulations 19-775, S.C. Code. The Director of the Office of Human Resources, as referred to in other Regulations, is referred to in this Regulation as the State Personnel Director to be consistent with the terminology in the State Employee Grievance Procedure Act.

19-706.02. A. Each agency head shall establish written internal grievance procedures. All provisions shall comply fully with the State Employee Grievance Procedure Act, as amended, and, as provided for in the Act, be submitted to the State Personnel Director for approval.

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19-706.02. C. No employee shall be disciplined or otherwise prejudiced in employment for exercising rights under the State Employee Grievance Procedure Act.

19-706.02. D. Compensation shall not be deemed a proper subject for consideration under the grievance procedure except as it applies to alleged inequities within an agency or salary decreases based on the results of EPMS evaluations. Compensation is not grievable if it represents a challenge to the structure of the Classification and Compensation System.

19-706.02. G. (3) The State Personnel Director will approve the amount of reinstatement pay due the employee. That approval is not subject to administrative appeal and will constitute the final administrative decision.

19-706.02. G. (4) Delete. Renumber remaining paragraphs to conform.

19-706.03 A. Grievances shall include dismissals, suspensions, involuntary reassignments and demotions. Reclassifications, reassignments, and transfers to the same pay grade are not considered grievances. Promotions are not considered grievances. However, where an allegation is made that the grievant was excluded from consideration for promotion to a position greater than one organizational level above his present level for which he was qualified when the promotional opportunity occurred, and the grievant applied or would have applied if he had known of the promotion opportunity, and the State Personnel Director determines that there is any material issue of fact or conclusion to be drawn from the facts of the allegation, then the promotion shall be deemed grievable. Compensation shall not be deemed a proper subject for consideration under the grievance plan except as it applies to alleged inequities within a particular agency or salary decreases based on the results of EPMS evaluations. A reduction in force shall be appealable by an affected employee under the grievance plan only if based on inconsistent or improper application of a reduction in force policy, procedure, or plan. Reclassification shall not ordinarily be deemed grievable as a demotion. However, if an allegation is made that a reclassification is punitive and the State Personnel Director determines that there is any material issue of fact or conclusion to be drawn from the facts of the allegation, then the reclassification shall be deemed grievable.

19-706.04. D. (2) Upon receipt of the appeal application form, notify the agency head to furnish the State Personnel Director a copy of pertinent personnel records of the appellant, including those of the agency's internal grievance procedure.

19-706.04. D. (3) Determine whether the appeal is in order and has been filed in a timely manner and in accordance with this Regulation. Upon receipt of appeals of questionable jurisdiction, the State Personnel Director shall determine whether an action is appealable.

Text:

19-775.02. Nature of Grievances

Based on Section 8-17-330, 1976 Code of Laws of South Carolina, as amended, grievances shall include dismissals, suspensions, involuntary reassignments, and demotions. Reclassifications, reassignments, and transfers to the same pay grade are not considered grievances. Promotions are not considered grievances. However, where an allegation is made that the grievant was excluded from consideration for promotion to a position greater than one organizational level above his present level for which he was qualified when the promotional opportunity occurred, and the grievant applied or would have applied if he had known of the promotion opportunity, and the Director of the Office of Human Resources determines that there is any material issue of fact or conclusion to be drawn from the facts of the allegation, then the promotion shall be deemed grievable. Compensation shall not be deemed a proper subject for consideration except

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as it applies to alleged inequities within a particular agency or salary decreases based on the results of EPMS evaluations. A reduction in force shall be appealable by an affected employee only if based on inconsistent or improper application of a reduction in force policy, procedure or plan. Reclassification shall not ordinarily be deemed grievable as a demotion. However, if an allegation is made that a reclassification is punitive and the Director of the Office of Human Resources determines there is any material issue of fact or conclusion to be drawn from the facts of the allegation, then the reclassification shall be deemed grievable.

19-775.03. Appeals

Grievances shall be appealable through the Director of the Office of Human Resources to the State Employee Grievance Committee. The Director of the Office of Human Resources shall assemble all records, reports and documentation of the earlier proceedings on the grievance and review the case to ascertain that there has been full compliance with established grievance policies, procedures, and regulations within the agency involved and shall determine whether the action is grievable to the Committee. Upon receipt of appeals of questionable jurisdiction, the Director of the Office of Human Resources shall determine whether an action is grievable.

19-775.04. Preliminary Attempt to Resolve Grievances

Once an appeal has been made to the Director of the Office of Human Resources and has been determined to be appealable to the Committee, the Director of the Office of Human Resources or the Director's designee shall review the record of the internal grievance process and shall schedule appointments to discuss the grievance separately with the employee or the employee's representative, or both, and representatives of the agency to attempt to resolve the matter. If an agreement between the two parties is not reached, the Director of the Office of Human Resources or the Director's designee shall present tentative findings and recommendations to both parties for resolution of the grievance appeal. Each party shall submit a written response within ten calendar days setting forth acceptance or rejection of the recommendations. Any discussions by any of the parties concerned during the mediation process shall be kept confidential and shall not be used or referred to during subsequent proceedings on the appeal.

19-775.05. Notice of Hearings.

The Director of the Office of Human Resources shall notify Committee members, Committee Attorney and all other parties concerned of the date, time and place of grievance hearings and request their presence.

19-775.06. Records and Papers; Administrative and Clerical Assistance.

The Director of the Office of Human Resources shall arrange for the reproduction of pertinent files, records and papers and distribute copies to the members of the Committee that will hear the grievance and to the Committee Attorney prior to the date of the hearing. The Director of the Office of Human Resources shall be responsible for recording the grievance hearings and shall provide to the Committee from the resources of the Office of Human Resources such administrative and clerical services as may be required.

19-775.07. A. After a grievance appeal has been determined to be grievable to the Committee and has been placed on the Committee's docket, representatives for the appellant and the agency shall exchange witness lists and forward a copy of the lists to the Office of Human Resources no later than five (5) days prior to the hearing. Witness lists which have not been exchanged as required by this provision, will be excluded unless the Committee finds that there has been excusable neglect or that the witness(es) should be admitted in the furtherance of justice.

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19-775.07. B. The Office of Human Resources must be notified at least five (5) days prior to the hearing of any representatives that will be present. Representatives may only be added after this time with the Committee's consent. Representatives who will be testifying must be listed as representatives and witnesses in order to testify. No more than three (3) representatives may be designated by either party.

19-775.08. Time Limitations for Requested Materials.

Any files, records and papers requested by the Director of the Office of Human Resources from the agency should be forwarded no more than ten (10) days following the request. Any other files, records and papers submitted by either party to be forwarded to the Committee prior to the hearing must be received in the Office of Human Resources at least fifteen (15) days prior to the hearing. Those documents submitted by both parties will be provided to Committee Members prior to the hearings and considered to be the record from the agency's internal grievance procedure on appeal during the hearing.

19-775.10. The Committee Chairman or his designee is authorized to issue subpoenas for files, records, and papers deemed pertinent to any investigation, and to subpoena witnesses at the request of either party. All subpoenas to be issued relating to the hearing will be issued by the Grievance Committee. In the event that either party in a case has difficulty in obtaining a witness's agreement to testify or to produce files, records and papers, such party must request in writing the issuance of a subpoena at least ten (10) days before the date of the hearing. The request for a subpoena must include the name of the witness and/or a description sufficiently specific to identify the documents in question. The request shall be forwarded to the Office of Human Resources. The Chairman of the State Employee Grievance Committee, for the Committee, issues the subpoena; however, the service of the subpoena is the responsibility of the requesting party. Subpoenaed documents shall be made available at least five (5) days before the date of the hearing to the requesting party. When any person fails to comply with a subpoena, the requesting party is responsible for pursuing any judicial enforcement of that subpoena. Any reasonable expenses incurred by a subpoenaed witness shall be paid by the requesting party.

19-775.11. Place of Hearings.

Committee hearings shall be held in appropriate facilities within the Office of Human Resources, Columbia, South Carolina, unless otherwise specified by the Committee.

19-775.12. Forms to be Used.

The Office of Human Resources shall develop standard forms to be used in all grievance procedures.

19-775.15. Recording of Proceedings.

All proceedings before the Committee shall be recorded by the Office of Human Resources. The tape shall be preserved in accordance with the retention schedule of the Office of Human Resources. The tapes will not be transcribed unless the Budget and Control Board, the Chairman, the Committee Attorney, or Committee members request such transcription. However, if the agency or appellant requests either a transcript or a copy of the transcript, the requesting party must pay the costs of the transcript or copy.

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19-775.34. Promulgation of Regulations.

STATE BUDGET & CONTROL BOARD

The Committee and the Director of the Office of Human Resources may recommend to the Budget and Control Board that it promulgate these and other regulations as may be necessary to carry out the provisions of the State Employee Grievance Procedure Act of 1982.

Preliminary Fiscal Impact Statement:

The Office of Human Resources of the Budget and Control Board estimates there will be no additional costs incurred in complying with the proposed amendments.

Statement of Need and Reasonableness:

To comply with recent statutory changes, to allow for more efficient administration, and to clarify language.

Summary of Assessment Report:

A Preliminary Assessment Report is not applicable.

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DOCUMENT TRANSMITTAL FORM STATE BUDGET & CONTROL BOARD

This form must be completed and submitted with each document filed with the Legislative Council

Agency Name Budget & Control Board Research & Statistics	Chapter Number 19	Date of Filing August 24, 1994
Regulation Number 19-775.34	Subject of Regulation State Employee Grievance Committee Rules	
Statutory Authority 1976 Code Section 8-11-230		

Type of Filing

- ____ NOTICE OF GENERAL PUBLIC INTEREST
- ____ NOTICE OF DRAFTING
- ____ PROPOSED REGULATION
Including: Notice of Opportunity for Public Comment and Hearing
and Fiscal Impact Statement.
- ____ EMERGENCY REGULATION
Including: Statement of Emergency Situation Requiring Filing.
- X FINAL REGULATION FOR GENERAL ASSEMBLY REVIEW
Including: Two letters of request for review, Synopsis, and Fiscal
Impact Statement.
- ____ RESUBMISSION OF WITHDRAWN REGULATION FOR GENERAL
ASSEMBLY REVIEW
- ____ FINAL REGULATION EXEMPT FROM GENERAL ASSEMBLY REVIEW

For Additional Information Contact Donna Traywick	Telephone Number 737-0977
Typed Name of Official Donna Kaminer Williams	Signature of Official <i>Donna Kaminer Williams</i>
Date January 10, 1995	

SOUTH CAROLINA STATE REGISTER USE ONLY	
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Document Number _____	
Date of Conversion: _____ Verification: _____	

EXHIBIT

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STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
REGULAR SESSION

ITEM NUMBER 4

AGENCY: Human Resources

SUBJECT: Department of Mental Health Tuition Support Program

The Department of Mental Health requests Budget and Control Board approval for an extension of its existing leave and tuition support program for Mental Health employees to participate in the Associate Degree in Nursing (ADN) Program at technical college campuses statewide. The Board approved this program for the Department on October 10, 1990, for a three year period. Similar programs for Licensed Practical Nurses had been approved in 1978 and 1982.

The Department of Mental Health continues to experience a shortage of nurses, and this program serves as a tool to assist in relieving staffing problems. The Department has received an educational grant from the Robert Wood Johnson Foundation which will assist in the funding of this program. The Department agrees not to request additional state funds for this program.

The Office of Human Resources also requests that the Board delegate to it the authority to review and renew future Department of Mental Health requests to extend this program beyond 1998.

BOARD ACTION REQUESTED:

Authorize the Department of Mental Health to extend its existing leave and tuition support program for its employees to participate in the Associate Degree in Nursing (ADN) Program at technical college campuses statewide; and authorize the Office of Human Resources to review and renew future Mental Health Department requests for extensions of this program beyond 1998.

ATTACHMENTS:

Agenda item worksheet; Facts Sheet; Noyes November 3 letter and attachments; Section 19-710.08 of OHR Regulations

004156

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

For meeting scheduled for:

☐ Blue Agenda
☒ Regular Session
☐ Executive Session

January 10, 1995

1. Submitted by: (a) Agency: Office of Human Resources
 (b) Authorized Official Signature Stephen C. Osborne
 2. Subject: S.C. Department of Mental Health Tuition Support Program

3. Summary Background Information:

The S. C. Department of Mental Health requests Budget and Control Board approval for an extension of its existing educational leave and tuition support program for Mental Health employees to participate in the Associate Degree in Nursing (ADN) Program at Technical College campuses statewide. The Board approved this program for the Department of Mental Health on October 10, 1990, for a three year period. Similar programs for Licensed Practical Nurses had been approved in 1978 and 1982. The Department of Mental Health continues to experience a shortage of nurses, and this program serves as a tool to assist in relieving staffing problems. The Department has received an educational grant from the Robert Wood Johnson Foundation which will assist in the funding of this program. The Department agrees not to request additional state funds for this program.

The Office of Human Resources (OHR) requests that the Board delegate to it the authority to review and renew future Mental Health Department requests to extend this program beyond 1998.

4. What is Board asked to do?

Approve the Department of Mental Health's request.

Approve OHR's request for authority to review and renew future Mental Health Department requests for extensions of this program beyond 1998.

5. What is recommendation of the Board division involved?

Approve the request.

6. Recommendation of other office (as required)?

Office Name _____	Authorized Signature _____
-------------------	----------------------------

7. Supporting Documents:

List those attached:

Facts Sheet.
 Letter of Request from the Department of Mental Health,
 dated November 3, 1994.
 Section 19-710.08 of OHR Regulations.

List those not attached
 but available:

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Facts Sheet

STATE BUDGET & CONTROL BOARD

Historical Background

The Mental Health Nurse Tuition Assistance program for LPN's was initially approved by the Board in 1978. It was extended in 1982, 1987, and 1990. Other nurse tuition assistance programs were approved by the Board in 1981, 1985 and 1992. All programs were approved in the past in accordance with Section 710.08 of the Office of Human Resources Regulations.

Facts

1. The Department of Mental Health (MH) continues to experience a shortage of registered nurses. Overtime costs for MH nurses in FY '94 were approximately \$950,000. Temporary expenses for nursing expenses were approximately \$2.4 million. This program will provide the opportunity for mental health specialists and licensed practical nurses (LPN) to continue to become registered nurses and is seen as a significant effort to increase and retain the number of registered nurses in the Department.
2. The ADN Program is a 21 month program. Participating employees are released from work up to twenty (20) hours per week to attend classes. Unlike the general Nurse Tuition Assistance Program approved by the Board on July 16, 1992, employees are paid for full time work while they attend classes. Tuition is paid by the Department. Total cost to the Department per student is approximately \$18,000.
3. Over the past three years thirty employees have completed the program with twenty-eight still employed by the Department. This is a 93% retention rate.
4. Participants in this program agree to work for the Department for a period of two months for every month he/she participates in the program. The general Nurse Tuition Assistance Program requires employees to work one month for each month they are in the program.
5. The program is funded by the individual department/facility which utilizes it. An educational grant from the Robert Wood Johnson Foundation will assist in funding the program. The Department agrees not to request additional state funds for it.

Prepared by the Office of Human Resources
December 30, 1994

004158



South Carolina
Department of
Mental Health

Office of the Director
2414 Bull Street/P.O. Box 485
Columbia, SC 29202
(803) 734-7780
Information: (803) 734-7766

Joseph J. Bevilacqua, Ph.D.
Director of Mental Health

November 3, 1994

Mr. Stephen Osborne, Director
Office of Human Resources
South Carolina Budget & Control Board
1201 Main Street, Suite 1000
Columbia, South Carolina 29201

RECEIVED
NOV 03 1994
EMPLOYEE RELATIONS
OFFICE OF
HUMAN RESOURCES

Dear Mr. Osborne:

On January 12, 1982, the Budget and Control Board approved a request by the South Carolina Department of Mental Health to grant special education leave and tuition support for employees to participate in the Associate Degree in Nursing (ADN) Program through the South Carolina Technical Education System. This approval was granted on the condition that the Program be periodically reviewed by the Budget and Control Board.

The Program was last reviewed in the Fall of 1990 and the Department was authorized to continue the Program.

By this letter I am requesting that the Department be authorized to continue this Program with the following changes:

The South Carolina Hospital Association has received an educational grant from the Robert Wood Johnson Foundation which will assist member hospitals pay for the cost of sponsoring students who are pursuing careers in nursing and allied health occupations.

In that all but one of our in-patient facilities are members of the Hospital Association, we would like to combine our resources with those of the Hospital Association to help us make our ADN Program as successful as possible.

I believe that it is important to recognize that this Program is intended to assist lower-income employees achieve meaningful professional positions in an area of critical need within the Department of Mental Health.

Attached is sponsorship information which I believe supports the Department's request for continuation of this Program by the Budget and Control Board.

004159

MENTAL HEALTH COMMISSION:

Richard K. Harding, M.D., Chairman, Columbia
Louise R. Hassenplug, Vice-Chairman, Rock Hill

Charles T. Baffle, M.D., Seneca
Richard A. Eckstrom, Greenville

Elizabeth L. Forester, Georgetown
James E. Whitford, Sr., M.D., Goose Creek

EXHIBIT

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November 3, 1994

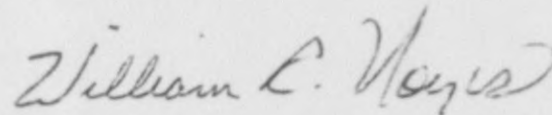
Page 2

STATE BUDGET & CONTROL BOARD

Finally, it should be noted that the cost of this Program will be paid out of the Department's existing budget and funding from the South Carolina Hospital Association. No additional funds are being requested to cover the cost of this Program.

If I can provide additional information, please let me know.

Yours very truly,



William R. Noyes, Director
Division of Human Resource Services

WRN:drs

Attachments

004160

WILLIAM S. HALL PSYCHIATRIC INSTITUTE
COLUMBIA, SOUTH CAROLINA
CONTINUING EDUCATION AND STAFF DEVELOPMENT AND TRAINING

M E M O R A N D U M

TO: Bill Noyes, Director
Division of Human Resource Services

FROM: Sara Joann Upchurch, MN,RN,CS
Assistant Director, CE & SDT

DATE: July 28, 1994

SUBJECT: Follow up to June ADN Report

I have had a chance to network with Ms. Dolores Fitzner and Mr. John Fletcher of SCSH. As a result of the review of materials submitted, I have changed the tables to reflect this additional information. I regret I am unable to give definitive information about the exact monies spent on tuition at SCSH as noted.

With this additional information, it is noted that the SCDMH had sixty - four (64) employees participating in the program over this three year period of time. Of these 64, thirty (30) have graduated. Of these 30 graduates, twenty-eight (28) are currently working in the SCDMH system. Of these 28, six (6) transferred from their original facility to another within the SCDMH system. Two of the thirty graduates left SCDMH employment.

Additional information reveals that of the thirty - four (34) remaining, seventeen (17) are still in school and seventeen (17) withdrew from the program over the past three years.

Please review the additional information provided in the tables.

cc: Dr. Faulkner Dr. Pressley
 Mr. Barber Ms. DiMuccio

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EXHIBIT

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WILLIAM S. HALL PSYCHIATRIC INSTITUTE
COLUMBIA, SOUTH CAROLINA
CONTINUING EDUCATION AND STAFF DEVELOPMENT

STATE BUDGET & CONTROL BOARD

SCDMH SPONSORED ASSOCIATE DEGREE NURSING PROGRAM REPORT

Completion Status

Employment Status

Name	In School	Withdrew	Graduate	Retained	Transfer	Terminated
1. BMC	2	1	3	6	0	0
2. CFSH	4	6	7	14	0	0
3. CMT/ DGNCC	1	2	2	4	1(CFSH)	0
4. GWBH	2	2	6	9		1
5. PBH	3	3	1	3	2(Pedmt & AOP MHC)	2
6. SCSH	5	3	11	17	3 (WSHPI)	2
TOTALS	17	17	30	53	6	5

Sara Joann Upchurch
Assistant Director, CE & SDTrng

cc: Dr. Faulkner
Mr. Barber

Dr. Pressley
Ms. DiMuccio

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JAN 10 1995

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STATE BUDGET & CONTROL BOARD

WILLIAM S. HALL PSYCHIATRIC INSTITUTE
COLUMBIA, SOUTH CAROLINA
CONTINUING EDUCATION AND STAFF DEVELOPMENT AND TRAINING
SCDMH SPONSORED ASSOCIATE DEGREE NURSING PROGRAM REPORT

Name of Facility	Tuition Expenses
1. BMC	\$ 8,640.00
2. CFSH	\$ 15,635.00
3. CMT/DGNCC	\$ 2,075.00
4. GWBPH	\$ 9,411.00
5. PBHPH	\$ 2,703.96
6. SCSH *	\$ 20,157.00 +
Total Tuition Paid	\$ 58,620.96 +

* SCSH was unable to differentiate between tuition paid versus monies paid for time away from work. The employee and total expenditure is listed below;

1. Carol Whitley	\$ 17,500
2. Kay Harrison	\$ 17,000
3. Sylvia Brooks	\$ 17,000

Total \$ 51,500

Sara Joann Upchurch
Assistant Director, CE & SDTrng

cc: Dr. Faulkner
Mr. Barber

Dr. Pressley
Ms. DiMuccio

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EXHIBIT

JAN 10 1995

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710.05 REQUIRED COURSES

STATE BUDGET & CONTROL BOARD

It may become necessary for an agency to require an employee to take a specific course that will help improve the employee's performance in the present position or acquire skills necessary to perform additional duties to meet agency needs. When this occurs, the agency will pay all costs of the course, including tuition, fees, books and examinations. An agency or institution shall not pay for courses required to attain or maintain a professional license.

710.06 IN-SERVICE TRAINING

In order to avoid costly duplication of effort, agencies planning to conduct workshops, seminars or other similar forms of in-service training in the areas of personnel administration, general management, and supervisory development shall coordinate these activities with the Training Unit of the Office of Human Resources. The Training Unit will, on request, provide assistance with the development to all agencies in South Carolina State Government with the development and presentation of training programs designed specifically to meet agency's training needs.

710.07 TUITION ASSISTANCE

State agencies may provide tuition assistance to employees based on the guidelines recommended by the Office of Human Resources and approved by the Budget and Control Board.

710.08 REQUESTS FOR SPECIAL CONSIDERATION

- A. If an agency determines that it has staff development or training needs which cannot be satisfactorily fulfilled by employing one or more of the methods and programs provided in this sub-regulation, the agency may develop and submit to the Budget and Control Board for approval a proposal for employee tuition aid. Each proposal shall include the following information:
 1. Program justification based on agency needs;
 2. Conditions related to the training;
 3. All classes and the number of positions in each class for which tuition aid is requested;
 4. Fiscal Year cost estimates for participation in the requested program; and
 5. A service commitment and payback agreement.
- B. Approval of the proposal by the Budget and Control Board must precede the selection of employees for training. Further, the Board may require the agency to provide sufficient data for proper evaluation of the program's value and cost effectiveness.

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EXHIBIT

JAN 10 1995

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STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
REGULAR SESSION
ITEM NUMBER 5

AGENCY: Office of General Services

SUBJECT: Parks, Recreation and Tourism Acquisition of Real Property

The Department of Parks, Recreation and Tourism requests authorization to accept the donation of approximately 268 acres adjoining Kings Mountain State Park in York and Cherokee Counties.

The property protects watersheds of park streams and lakes and contains a mature hardwood forest with valuable scenic, natural, and educational resources. The property is currently being held by the Nations Ford Land Trust of Fort Mill South Carolina pending approval of the transfer to PRT.

General Services has been informed by PRT that an environmental study is in process and that time is of the essence in obtaining approval for the transaction. The Board is therefore requested to approve this donation contingent upon the environmental study being acceptable to General Services and the favorable review of the transaction by the Joint Bond Review Committee.

BOARD ACTION REQUESTED:

Authorize the Department of Parks, Recreation and Tourism to accept the donation of approximately 268 acres in York and Cherokee Counties adjoining Kings Mountain State Park, contingent upon the environmental study being acceptable to General Services and contingent approval of the Joint Bond Review Committee.

ATTACHMENTS:

Agenda item worksheet; McKown January 3 letter; Code Section 1-11-65

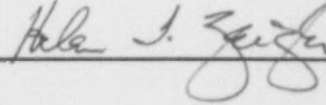
004205

Meeting Scheduled for: January 10, 1995

Regular Agenda STATE BUDGET & CONTROL BOARD

1. Submitted By:

- (a) Agency: Office of General Services
(b) Authorized Official Signature: Helen T. Zeigler

2. Subject:

Parks, Recreation and Tourism acquisition of real property adjoining Kings Mountain State Park.

3. Summary Background Information:

The Department of Parks, Recreation and Tourism is requesting approval to accept the donation of approximately 268± acres adjoining Kings Mountain State Park in York and Cherokee Counties. The property protects water sheds of park streams and lakes and contains a mature hardwood forest with valuable scenic, natural and educational resources. The property is currently being held by the Nations Ford Land Trust of Fort Mill South Carolina pending approval of the transfer to PRT. General Services has been informed by PRT that an environmental study is in process and that time is of the essence in obtaining approval for the transaction. The Board is therefore requested to approve this donation contingent upon the environmental study being acceptable to General Services and the favorable review of the transaction by the Joint Bond Review Committee.

4. What is Board asked to do?

Approve the donation of approximately 268± acres adjoining Kings Mountain State Park to PRT contingent upon the environmental study being acceptable to General Services and approval of Joint Bond Review Committee.

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 PRT
2. Code Section 1-11-65

004166

CC: Al Loftis

EXHIBIT

Grace G. McKown, Director

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

RECEIVED

JAN 4 1995

Budget and Control Board
Office of the Executive Director

January 03, 1995

Mr. Richard W. Kelly
Director, Division of Operations
Budget and Control Board

Dear Rick:

The Department of Parks, Recreations and Tourism request approval by the State Budget and Control Board to accept a tract of land adjoining Kings Mountain State Park in York and Cherokee Counties, South Carolina. The property formerly owned by the Peeler family, consists of 268 +/- acres was purchased by The Conservation Fund of Arlington, Virginia in cooperation with the Richard King Mellon Foundation. The property is being held by the Nations Ford Land Trust of Fort Mill, South Carolina pending approval to transfer the land to PRT for the state of South Carolina.

The property, assessed at \$262,000, protects watersheds of park streams and lakes and contains a mature hardwood forest with fine scenic, natural and educational resources.

An environmental assessment is being carried out at this time and will be ready in time for your staff to review prior to the Board's meeting. Please put this request on the agenda for the January 10, 1995 meeting.

Sincerely,

Grace G. McKown
Director

94VAS139

004167

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STATE BUDGET & CONTROL BOARD

"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."

004168

EXHIBIT

JAN 10 1995

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STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET & CONTROL BOARD
REGULAR SESSION
ITEM NUMBER 6

AGENCY: General Services

SUBJECT: Department of Commerce Procurement Code and § 1-11-65 Exemptions

The Department of Commerce proposes to develop a new project, Lakeside at Russell, at Lake Richard B. Russell to be implemented in several phases. The first phase is ready for implementation and consists of a number of components which are detailed in the attached Draft Proposal.

Because of concerns related to the proposed timetable for completing the various components of Phase I, the Department requests Board approval for several exemptions from Code Section 1-11-65 for the property transactions associated with the project. The Department also requests exemptions from the requirements of the Consolidated Procurement Code for several contracts that will be entered into in connection with the project. The Department asks that the Board take the following actions:

1. Approve the concept of the project.
2. Authorize the Department of Commerce to establish financing for the project, subject to the approval of the State Treasurer.
3. Exempt from the requirements of § 1-11-65 the purchase, exchange, lease, or sale of all property connection with Phase I of the project, provided these transactions are approved in advance by the Office of General Services.
4. In accord with Code Section 11-35-710, exempt the following contracts from all requirements of the Consolidate Procurement Code, provided that in each of these situations alternative procedures approved in advance by the Office of General Services are followed:
 - a. The hiring of private vendors for sales and marketing of all residential and commercial properties in this project.
 - b. All construction contracts related to Phase I of the project.
 - c. Contracts related to the development of the golf course and the fun park.

BOARD ACTION REQUESTED:

Receive as information a report from the Department of Commerce relating to the Lakeside at Russell project with the understanding that the Department will present the proposal to new Budget and Control Board members and the legislative delegation; and agree to consider the matter further at the February 14 Board meeting.

ATTACHMENTS:

Agenda item worksheet; Proposal; Code Sections 1-11-65 and 11-35-710

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BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: January 10, 1995

Regular Session

1. Submitted by:

- (a) Agency: Office of General Services
(b) Authorized Official Signature

Helen T. Zeigler
Helen T. Zeigler

2. Subject: Phase I of the Department of Commerce's Lakeside at Russell Project

3. Summary Background Information: The Department of Commerce (DOC) is proposing to develop a new project at Lake Richard B. Russell. This development, known as "Lakeside at Russell" is proposed to be implemented in several phases. The first phase is now ready for implementation and will consist of a number of components which are detailed in the attached Draft Proposal. Because of concerns related to the proposed timetable for completion of the various components of Phase I, DOC is requesting approval from the Board for several exemptions from Section 1-11-65 for the property transactions that will be associated with the project, and from the requirements of the Consolidated Procurement Code for several contracts that will be entered into in connection with the project. The specific actions that the Board is asked to take are as follows:

1. Approve the concept of the Project.
2. Authorize the Department of Commerce to establish financing for the project subject to approval of the State Treasurer.
3. Exempt from the requirements of Section 1-11-65 the purchase, exchange, lease or sale of all property connected with Phase I of the project provided these transactions are approved in advance by the Office of General Services.
4. Exempt under Section 11-35-710 the following contracts from all requirements of the Consolidated Procurement Code provided that in each of these situations alternative procedures approved in advance by the Office of General Services are followed:
 - a. The hiring of private vendors for sales and marketing of all residential and commercial properties in this project.
 - b. All construction contracts related to Phase I of the project.
 - c. Contracts related to the development of the golf course and the fun park.

4. What is Board asked to do?

Approve the concept of the project and its financing and exempt the actions listed above under the terms described.

5. What is the recommendation of Board Division involved?

6. (a) List of Supporting Documents

1. Draft Proposal from Department of Commerce.
2. Sections 1-11-65 and 11-35-710 of the Code of Laws.

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

CC4170

PROPOSAL
to theSouth Carolina Budget and Control Board
from theDivision of Savannah Valley Development
South Carolina Department of Commerce

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STATE BUDGET & CONTROL BOARD

The Savannah Valley Development Division (SVD) of the South Carolina Department of Commerce is a unique unit of state government. Its legislative mandate requires a pro-active, "hands-on" role in fulfilling its mission: "to encourage, assist, promote, and cooperate in the overall economic development of the Savannah River Basin of South Carolina."

SVD's approach toward fulfilling this mission has been and is to identify an economically-distressed area with high potential for success and to work intensively in that area for a period of years to ensure long-term, sustained improvement to the local economy, work force, and quality of life.

Currently, SVD's focus is on the Town of Calhoun Falls, located in Abbeville County, along the shore of Lake Richard B. Russell. SVD has assembled more than 2,700 acres through fee-simple purchase or long-term lease for the purpose of developing a regional destination resort. A great amount of research and planning has been devoted to this project to verify its need and to identify the best approach to take to ensure success. The development has been named "Lakeside at Russell."

The Savannah Valley Development Division requests that the State Budget and Control Board endorse the "Lakeside at Russell" concept and exempt SVD from the South Carolina Consolidated Procurement Code, regulations, and further Board approvals under SC Code 1-11-65 for the project.

Master Plan: Exhibit A shows the proposed Master Plan for the entire project, and Exhibit B shows the area proposed for Task I in greater detail. The entire tract was master planned for possible uses, with major emphasis directed to Task I. The area within the Town limits has been zoned Planned Mixed Development, and the proposed uses are in compliance with this category. Environmental and cultural resource surveys have been conducted, and all regulations of the Town, County, State, and Federal governments are being

followed. A Marketing Study conducted by Hammer Siler & George confirms the approach being taken to develop the site as a regional destination resort.

SVD requests that the B&CB endorse this project in concept.

Land Acquisition: In addition to the land already owned or leased by SVD, there are several tracts in private ownership that would be desirable for SVD to acquire because of their impact on the project. These properties have value to SVD either because they could improve access, would enhance the value of SVD-controlled property, currently have a negative visual impact on the SVD project area, or otherwise would assist in making the project a success.

Among the sites under consideration are a small, triangular tract of land at the main entrance (needed for improved access to the site and to enhance the value of adjacent SVD-owned property), and two tracts with derelict buildings at critical intersections (needed to demolish or repair the buildings and to place architectural controls on the property prior to their resale by SVD).

In addition, there are other parcels that SVD would like to exchange for property of equal or greater value. Among these are the sites of the Calhoun Falls Water Treatment Plant and of a small industry. SVD proposes to relocate these facilities and to redevelop the present sites (which are prominently located adjacent to SVD-owned property) in a more appropriate manner.

SVD needs the ability to negotiate the purchase or exchange of property at Calhoun Falls at a cost that SVD finds reasonable within the context of the value of the property to overall project needs and goals.

SVD requests that the B&CB exempt the "Lakeside at Russell" project from requirements of SC Code 1-11-65 for the purchase or exchange of all property connected with Phase I of the project.

SVD-Owned Improvements: SVD proposes to construct and own several buildings and other permanent improvements at "Lakeside at Russell." Because of the nature of the project, timing is critical, and the success of the project depends in part on SVD's ability to respond quickly to outside factors. SVD seeks no additional state funding, but does seek authorization to select

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contractors on an expedited time schedule. Among the buildings to be constructed are a sales center, a new main office for SVD, and rental lodging units on land leased from COE.

STATE BUDGET & CONTROL BOARD

SVD proposes to act as general contractor on all building projects. Division Director Bill Bashor is a licensed architect. He will develop plans and specifications in-house and will approve plans and specifications submitted by outside architects and/or builders. SVD would obtain at least three quotes on each subbid and would select the lowest qualified bid. Each building will meet all applicable local, state, and federal codes and regulations.

SVD requests that the B&CB exempt SVD construction procurements from the South Carolina Consolidated Procurement Code and Regulations; provided the following requirements are met:

- *SVD will engage a professional construction manager for facilities designed by SVD.*
- *Construction contracts will be awarded based on competitive bidding procedures approved by the Office of General Services (OGS).*
- *Construction documents will be submitted to OGS to review for building code compliance.*
- *Construction-related professional services procurements will be subject to approval by OGS.*

Lakeside Inn: SVD proposes to construct a 60-unit (100-room) Inn on land owned by the United States Army Corps of Engineers (COE) and leased for 50 years to the South Carolina Department of Parks, Recreation & Tourism (PRT). (SVD, PRT, and COE have agreed to this joint venture in principle, and a written agreement is currently being prepared.) The units will be sold as a condo leasehold to private businesses and individual investors. SVD will lease back the condo units on a year-to-year basis for the purpose of making them available to the general public for daily rental. SVD will offer to repurchase the units for the original purchase price (with SVD funds, contingent on availability) during the third to tenth years of the lease. SVD will not use investor funds to construct the

building, but would borrow approximately \$3 million until the building is complete. Prior to the beginning of construction, SVD will have reservations for at least 50 of the 60 units. SVD will place a notice in *The State* and/or other appropriate media inviting potential investors to participate.

In order for the Inn to be open by the Summer of 1995, SVD proposes to "fast-track" its construction by breaking the construction contract into phases, according to the requirements cited above under "SVD-Owned Improvements."

SVD requests that the B&CB authorize SVD to establish financing for this project through and subject to the approval of the State Treasurer.

Golf Course and Fun Park: SVD proposes to seek a private developer to construct an 18-hole, championship golf course, partly on land owned by SVD in fee simple and partly on land owned by COE and leased to PRT. SVD has prepared a Draft Request for Proposals (RFP) that contains the conditions under which this aspect of the project would be implemented, and has submitted the Draft RFP to OGS for comment and approval.

SVD has reserved a 28-acre tract for a fun park, a critical element of the overall project, but one that is likely to be a "loss leader" initially. It will require a special approach to seek an investor for this facility.

SVD requests that the B&CB exempt SVD from the South Carolina Consolidated Procurement Code and Regulations for the leasing of land as necessary for the golf course and fun park; provided, however, the SVD will procure developers for these properties through an RFP procedure that will be approved and audited by OGS.

Residential and Commercial Property: SVD has contracted with an independent appraiser to determine the fair market value of each residential and commercial tract in Phase I of "Lakeside at Russell." SVD intends to contract with a real estate professional (individual or entity) to market the project exclusively on a fee basis and to sell (on a first come, first serve basis) each tract at an amount equal to or greater than its appraised value. As part of the contract, a standard commission will be negotiated between SVD and the sales staff. SVD

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will provide the sales center at a nominal fee and will be responsible for all advertising of the project at an amount not to exceed the projections shown in the Marketing Plan prepared for SVD by Leslie Advertising. The agency will have predetermined goals, and the contract will be subject to renewal on an annual basis.

SVD requests that the B&CB exempt the sales of residential and commercial property by SVD to the public from the requirements of SC Code 1-11-65, subsection A; provided, however, that the overall sales plan, as supported by the appraisal, will be submitted to OGS for review and approval beforehand.

Contract Employees: SVD proposes to contract with private individuals and/or companies for certain specialized services, rather than to hire them as regular state employees. Among the services to be procured in this manner are the sales and marketing of residential and commercial properties, as cited above.

SVD will seek highly qualified persons or firms for services that require a significant amount of experience, expertise, or skill. Whenever possible, SVD will interview at least three persons or firms and will select the successful applicant based primarily on qualifications. SVD will attempt to hire locally or regionally, to the extent that qualified persons or firms can be identified in the area.

SVD requests that the B&CB exempt SVD from the South Carolina Consolidated Procurement Code and Regulations to hire a private firm or contract personnel for sales and marketing of all residential and commercial properties in this project to the public; provided, however, that competitive procedures are approved by OGS.

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PINIONS

ing utilized by the Board, as such
olve a question of policy rather than
1992 Op Atty Gen No. 92-22.

udget and Control Board was most
acting within its scope of authority
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previous fiscal years to prevent a year-
1992 Op Atty Gen No. 92-22.

and employees.

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State Budget and Control Board in

Director of Budget Division.

Budget Division of the State
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S.C. Code of Regulations R. 19-501

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STATE BUDGET AND CONTROL BOARD

§ 1-11-65

the Division of Local Government was accomplished by funds other than grant funds.

(C) The Division of Local Government of the State Budget and Control Board shall furnish a copy of this section to a grantee when the grant is awarded.

HISTORY: 1990 Act No. 612, § 14, eff July 1, 1990 and applies to grants awarded after June 30, 1990 (became law without the Governor's signature).

§ 1-11-35. Procurement of products manufactured or produced in South Carolina or United States; priority over foreign products.

Editor's Note—

1993 Act No. 178, § 2, effective July 1, 1993, provides as follows:

"SECTION 2. It is the intent of the General Assembly to ensure that the heads of state agencies, departments, and institutions are held accountable for the effective and efficient use of the public resources entrusted to them annually in the appropriation process. Each agency, department, or institution head is expected to have in place an effective system of management controls to prevent and detect improper conduct by their employees. In the event of mismanagement, waste, or abuse allowed by an agency, department, or institution head, the Governor, constitutional officer, or governing board is expected to take swift and appropriate action to correct the matter and regain the public trust.

"It is the intent of the General Assembly that agencies and institutions comply with the provisions of Code Sections 11-35-1520, 1-11-35, and 44-96-140, as amended, relating to vendor preferences. The Division of General Services shall not be required to audit for compliance with these sections."

Cross references—

For Regulations promulgated under authority of this section, see S.C. Code of Regulations R. 19-446.1000.

§ 1-11-65. Approval and recordation of real property transactions involving governmental bodies.

(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.

HISTORY: 1989 Act No. 26, § 1, eff 30 days after approval (approved April 1, 1989.).

Editor's Note—

1988 Act No. 638, § 8, provides as follows:

"The State Budget and Control Board and the Joint Bond Review Committee or their designees shall devise procedures for authorizations of leases or lease purchases, or both, and make recommendations to the General Assembly on the procedures by February 1, 1989."

Effect of Amendment—

The 1989 amendment designated the existing paragraph as subsection (A), deleted "unless a governmental body is expressly exempted by the Budget and Control Board" from the end of that paragraph, added the last three sentences to subsection (A), and added subsection (B).

ATTORNEY GENERAL'S OPINIONS

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Under Section 1-11-65, a certificate of accep-
tance acknowledging the Budget and Control

Board's approval of the transaction must be re-
corded with the deeds involving real property

For latest statutes or assistance call 1-800-527-0430

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SUBARTICLE 3

EXHIBIT

EXEMPTIONS

JAN 10 1995

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SEC.

11-35-710. Exemptions.

STATE BUDGET & CONTROL BOARD

§ 11-35-710. Exemptions.

The board may upon the recommendation of the Division of General Services, exempt governmental bodies from purchasing certain items through the respective chief procurement officer's area of responsibility. The board may exempt specific supplies or services from the purchasing procedures herein required and for just cause may by unanimous written decision limit or withdraw any exemptions provided for in this section. The following exemptions are hereby granted in this chapter:

- (a) The construction, maintenance and repair of bridges, highways and roads; vehicle and road equipment maintenance and repair; and any other emergency type parts or equipment utilized by the Department of Highways and Public Transportation;
- (b) The purchase of raw materials by the South Carolina Department of Corrections, Division of Prison Industries;
- (c) S. C. State Ports Authority;
- (d) S. C. Public Railways Commission;
- (e) S. C. Public Service Authority;
- (f) Expenditure of funds at state institutions of higher learning derived wholly from athletic or other student contests, from the activities of student organizations and from the operation of canteens and bookstores, except as such funds are used for the procurement of construction, architect-engineer, construction-management and land surveying services;
- (g) Livestock, feed and veterinary supplies;
- (h) Articles for commercial sale by all governmental bodies;
- (i) Fresh fruits, vegetables, meats, fish, milk and eggs;
- (j) South Carolina Arts Commission and South Carolina Museum Commission for the purchase of one-of-a-kind items such as paintings, antiques, sculpture and similar objects. Before any governmental body procures any such objects, the head of the purchasing agency shall prepare a written determination specifying the need for such objects and the benefits to the State. The South Carolina Arts Commission shall review such determina-

tion and forward a recommendation to the board for approval;

(k) Published books, periodicals and technical pamphlets.

(l) South Carolina Research Authority.

HISTORY: 1981 Act No. 148, § 1; 1984 Act No. 309, § 4.

Cross references—

As to application of this section to vesting of central materials management authority in Division of General Services, see § 11-35-510.

For provision that contracts entered into by State Health and Human Services Finance Commission with health and human services agencies be in accordance with State Consolidated Procurement Code, see § 44-6-50.

SUBARTICLE 5

OFFICES CREATED

SEC.

11-35-810. Creation of the office of the materials management officer.

11-35-820. Creation of the office of the information technology management officer.

11-35-830. Creation of the office of the state engineer.

11-35-840. Delegation of authority.

§ 11-35-810. Creation of the office of the materials management officer.

There is hereby created, within the Division of General Services, a materials management office to be headed by the materials management officer. The materials management officer shall be at an organizational level answering directly to the director of the Division of General Services.

HISTORY: 1981 Act No. 148, § 1.

§ 11-35-820. Creation of the office of the information technology management officer.

There is hereby created within the Division of General Services the information technology management office to be headed by the information technology management officer. All procurements involving information technology, and any pre- and post-procurement activities in this area, shall be conducted in accordance with the regulations promulgated by the board except as otherwise provided for in this code by specific reference to the information technology management office.

HISTORY: 1981 Act No. 148, § 1.

§ 11-35-830. Creation of the office of the state engineer.

There is hereby created within the Division of General Services,

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STATE BUDGET & CONTROL BOARD

EXECUTIVE SUMMARY

Project Description

"Lakeside at Russell" is a multi-phased, mixed-use development undertaken by the Savannah Valley Development Division of the South Carolina Department of Commerce (SVD). It encompasses more than 2,700 acres owned or leased by SVD at Calhoun Falls, South Carolina, between the Savannah River Scenic Highway and the shores of Lake Richard B. Russell. The development also includes the Blue Hole Recreation Area (BHRA) and a portion of Calhoun Falls State Park (CFSP).

SVD has determined that the best form of development at Lake Russell/Calhoun Falls is a destination resort targeted toward middle income families. Phase I of "Lakeside at Russell" will include a championship golf course; a 60-unit (100-room) inn; restaurant; lounge; retail/conference facilities; and fun park.

The golf course will be located along the northern periphery of the project area. The inn will overlook Lake Russell and the golf course. The restaurant, lounge, golf pro shop, retail, and conference facilities will be incorporated in or adjacent to the inn building. The fun park will include carpet golf, go cart track, pizza parlor/snack bar, and video arcade. SVD plans to lease/purchase the units in the inn to businesses and industries, subject to regulations of the United States Army Corps of Engineers (COE).

"Lakeside at Russell" has been designed to integrate CFSP and BHRA into the overall development. BHRA contains a boat ramp and 8-slip dock, picnic area with two shelters, playground, fishing pier, restrooms, and paved parking area. CFSP contains a tackle shop and marina with 36-slip concrete dock, fishing pier, approximately 100 campsites (primitive, tent, and RV), playgrounds, swimming area with white sand beach, fishing piers, community building, tennis courts, more than 100 picnic sites, and two picnic shelters. Boat slips at CFSP are available for rent at the rate of \$85.00 per month (as of October 1994).

Future phases of development include rental cottages, condominiums, single-family homesites, dry storage facility for boats, additional golf courses, office/commercial areas, bed & breakfast inn, marinas, new residential

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neighborhood with park and community buildings, patio homes, recreational vehicle park, cabins, and hunting & fishing lodge.

The Developer

The Savannah Valley Development Division of the South Carolina Department of Commerce (SVD) was created by legislative act to encourage, assist, promote, and cooperate in the overall economic development of the Savannah River Basin of South Carolina. With the backing of the State of South Carolina, SVD works to provide conditions necessary to attract private investment to economically-disadvantaged areas of the Savannah Valley service area.

SVD's primary goal in developing "Lakeside at Russell" is to improve the local economy through quality economic development projects. To fulfill this goal, it will create new entrepreneurial opportunities and seek private investment in the Calhoun Falls area of Abbeville County. Specific objectives include a higher tax base, increased employment, population growth, and renewed vitality in the Town of Calhoun Falls.

Architectural Guidelines

"Lakeside at Russell" is a community with a strong visual identity based upon turn-of-the-century vernacular architectural styles of the local area. So that all residents of and visitors to "Lakeside at Russell" can enjoy the elegance and simplicity of these styles, SVD has established architectural guidelines that will govern all new construction and renovation. An Architectural Standards Committee will review proposed plans for all buildings within the development to ensure that individual buildings reflect the overall design objectives of the entire community and that the natural setting of the community is preserved and enhanced.

Financial Summary

SVD has analyzed the Inn and Retail facilities proposed for "Lakeside at Russell" to develop financial projections based on current market conditions and industry statistics for similar facilities. Total cost for the buildings and related amenities to be constructed by SVD is projected to be approximately \$4 million. Infrastructure improvements, also to be funded by the State of South Carolina, are estimated to cost \$750,000. The Inn is designed to include forty two-bedroom

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suites (unit price \$69,950) and twenty one-bedroom suites (unit price \$49,950). Even with an estimated occupancy rate of 55%, it is projected to be profitable.

Marketing Information

SVD has secured the services of Leslie Advertising of Greenville, SC, to develop a marketing plan for "Lakeside at Russell". The overall marketing plan contains logo development for the project and a comprehensive plan that identifies the target market, where they live, and how to reach them. It outlines objectives and strategies both for the Inn and for real estate sales, along with supporting rationale and a media plan. A recommended budget lists expenses for advertising, collateral production, and direct mail. The plan includes a list of potential names for the Inn, as well as target market segments and a model that forecasts monthly accommodations revenue by segment.

Environmental Analysis

SVD contracted for extensive environmental studies to ensure that the "Lakeside at Russell" project site is developed in a manner that preserves, protects, and enhances the significant qualities of the area. These studies address hydrology, wetlands, hazardous waste, vegetation, wildlife, and archaeological & historical resources.

The project site encompasses several small streams that flow into Lake Russell. Generally, Highway 81 marks the major watershed line between the Savannah and Little Rivers. The eastern edge of the Savannah River Basin is about 25 miles from Lake Russell. The few wetlands that were found at "Lakeside at Russell" were mapped and will be avoided. Results of the hazardous waste study are available from SVD.

Generally, "Lakeside at Russell" is forested in pine, oak, hickory, and sweet gum. A portion of the site contains a significant old-growth deciduous forest that includes large tulip poplars, beech, red oak, shagbark hickory, white oak, black oak, black gum, basswood, dogwood, and Florida maple. The wildlife habitat study evaluated the development's impact on white-tailed deer, wild turkey, gray squirrel, barred owl, and pileated woodpecker.

No buildings eligible for listing in the National Register of Historic Places are located within the boundaries of "Lakeside at Russell", and only a few potentially

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significant archaeological sites were found. If further testing reveals that these sites are eligible, they will be preserved as a part of the overall development.

Infrastructure

Infrastructure improvements at "Lakeside at Russell" are phased to ensure that no financial or capacity burdens are placed on the State or the local community. The first phase will be within the limits of the Town of Calhoun Falls, where adequate capacity exists for water and sewer services. The Town also is served by natural gas.

SVD is working with the Town to provide a new and expanded water treatment plant that will have sufficient capacity to meet present and projected water treatment needs. When funding is secured, the Town and SVD will swap land so that the new water treatment plant will be built on a lot near the raw water intake point and the old site will be redeveloped as a part of "Lakeside at Russell".

SVD also is working with the Town of Calhoun Falls to identify ways to finance an upgrade to the Town's wastewater treatment plant. Although the plant has sufficient capacity for present needs, an expanded facility will be needed to handle demand from projected future growth.

SVD will contract with the Town to build approximately 8500 linear feet of new streets, water lines, and sewer lines to serve Phases I and II of "Lakeside at Russell". Future expansions will reflect needs as they exist at the time.

Economic Impact

"Lakeside at Russell" is designed to counteract a history of regional neglect, economic decline, and areawide poverty through limited and controlled development of underutilized resources. A review of 1990 Census data reveals that Abbeville County and the Town of Calhoun Falls lag behind the State in a number of areas, including per capita income, school operating expenditures per student, percentage of population with a high school diploma, population growth, size of labor force, and total employment.

"Lakeside at Russell" is expected to assist in reversing these conditions by expanding the tax base, enhancing tourism revenues, diversifying the economy,

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EXHIBIT

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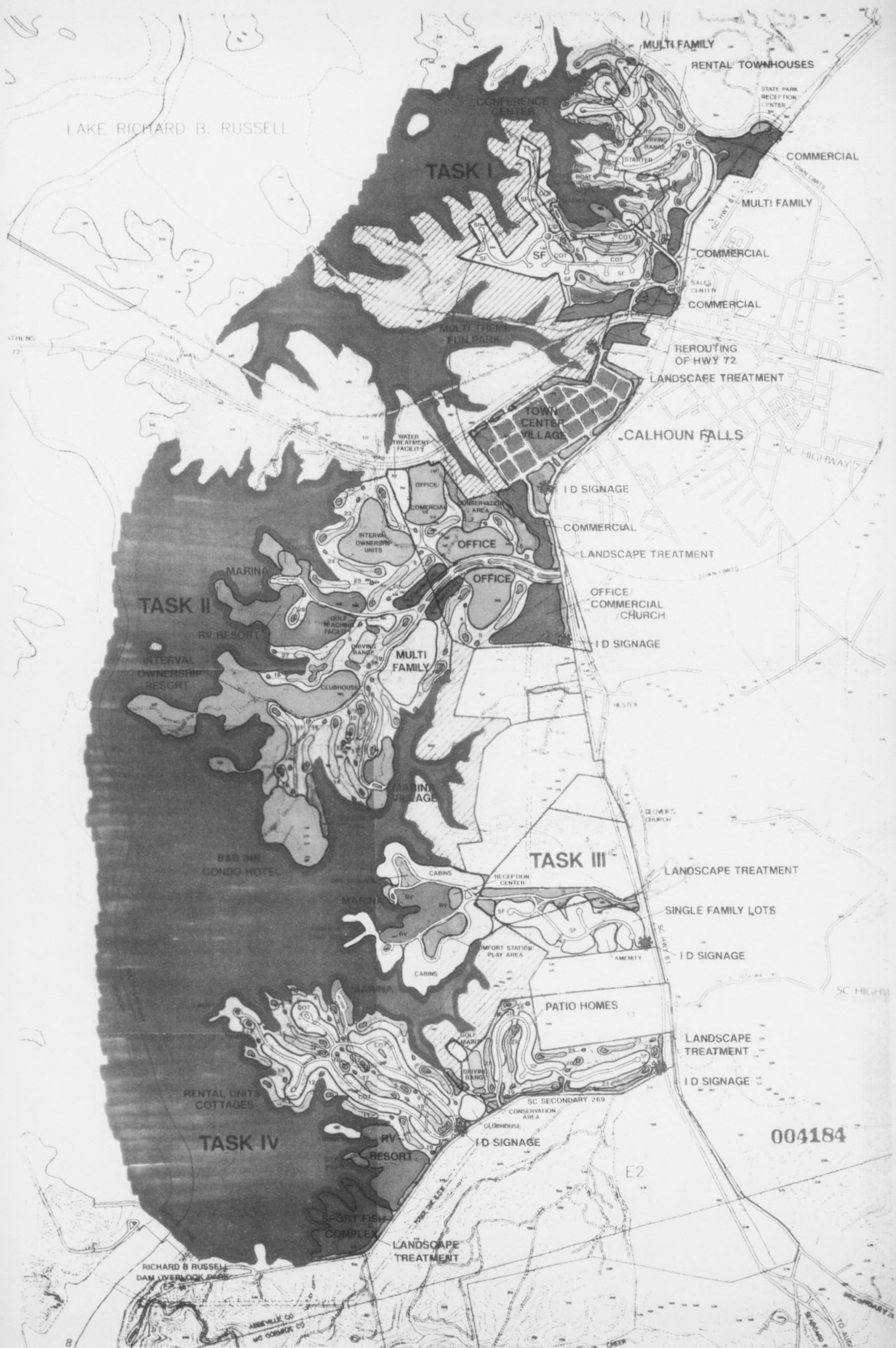
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and assisting with related economic development efforts (such as activities that support projects to improve the public school system, expand recreational facilities, and revitalize the downtown area).

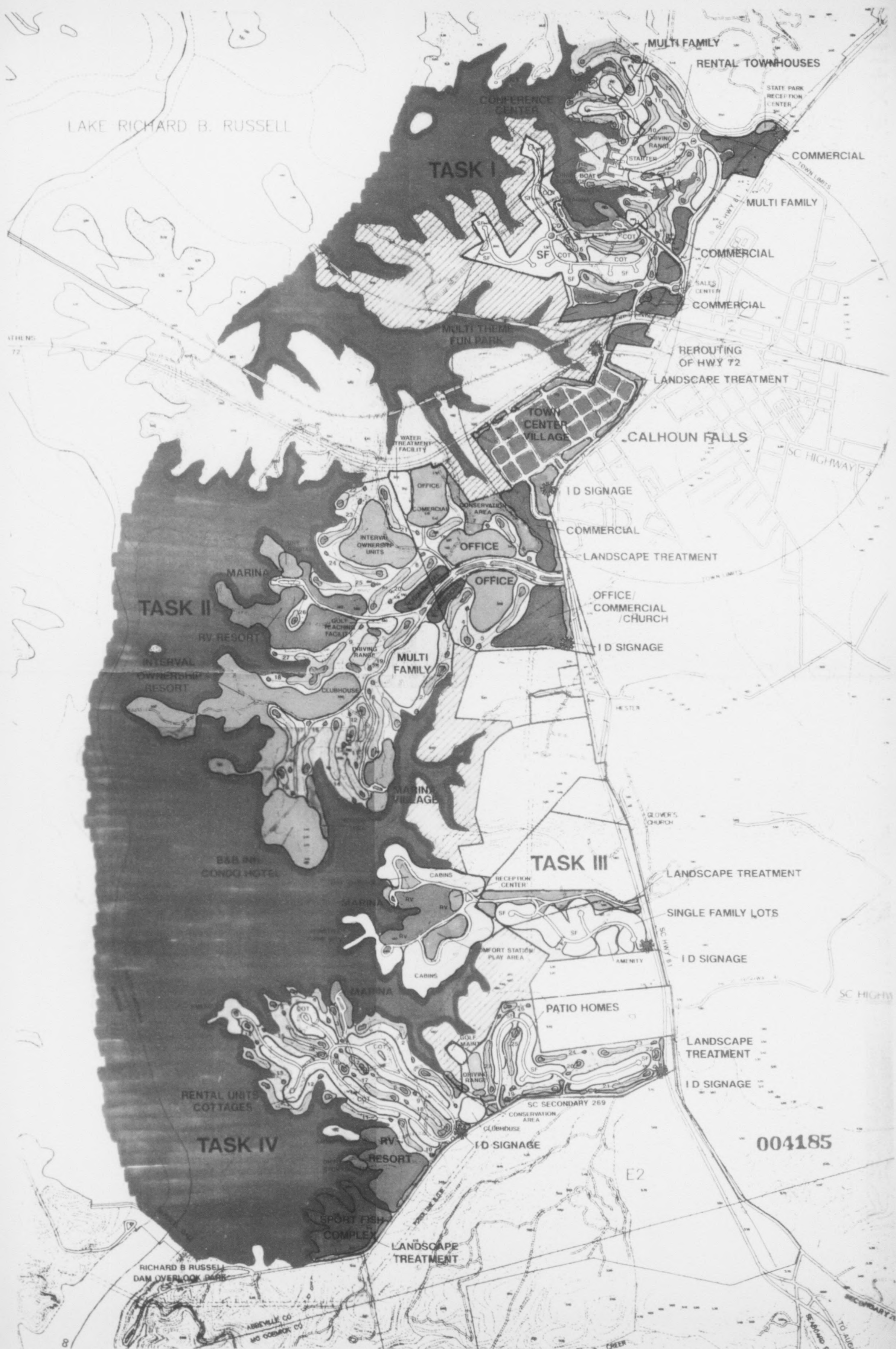
STATE BUDGET & CONTROL BOARD

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CALHOUN FALLS
STATE PARK

WETLAND MIXED HARDWOODS

D2

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LAKE RICHARD B. RUSSELL

STATE PARK
RECEPTION
CENTER

MULTI FAMILY

CONFERENCE
CENTER

DRIVING
RANGE

RENTAL

TOWNHOMES

MULTI FAMILY

CALHOUN
FALLS
HIGH SCHOOL

COTTAGES

MARINA

MULTI FAMILY

SC HIGHWAY 81

WESTPOINT
PEPPERILL
PLANT

COTTAGES

COTTAGES

SINGLE FAMILY

SINGLE FAMILY

COMMERCIAL

SALES
CENTER

ENTRY
STATEMENT

MULTI THEME
FUN PARK

COMMERCIAL

COUNTY ROAD 82

COUNTY R

REROUTE

HWY 72

THE EXPRESS

CARLISLE BAIT & TACKLE

COAST LINE RAILROAD

EXHIBIT B

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EXHIBIT

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STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

REGULAR SESSION CONTROL BOARD
ITEM NUMBER 7

AGENCY: General Services

SUBJECT: DHEC Procurement Code Exemption

In accord with the provisions of Code Section 11-35-710, the Department of Health and Environmental Control requests an exemption from the requirements of the Consolidated Procurement Code for all contracts for home health services.

Hospitals are discharging patients early, thereby increasing the need for home health care. Home health services are delivered on a referral basis only with hospitals being the primary source of referrals. DHEC has provided these services through its full-time, part-time, and contract program staff.

In order to ensure the continuation of referrals, provide for continuity of patient care, ensure care for indigent patients, and reduce the cost of health care, DHEC must contract with hospitals and other private providers for a full array of coordinated home health services.

For the most part, the individual professional services that comprise home health care have been exempted from the requirements of the Consolidated Procurement Code by previous actions of the Board. However, certain types of services provided by home health service deliverers have not been exempted. An exemption for all contracts for home health services would provide DHEC a method for contracting for the full array of home health services on a turn key basis.

BOARD ACTION REQUESTED:

In accord with the provisions of Code Section 11-35-710, exempt the Department of Health and Environmental Control from the requirements of the Consolidated Procurement Code for all contracts for home health services.

ATTACHMENTS:

Agenda item worksheet; Bryant 12/22/94 letter; Code Section 11-35-710

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BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: January 10, 1995

Regular Session

1. Submitted by:

- (a) Agency: Office of General Services
(b) Authorized Official Signature

Helen T. Zeigler
Helen T. Zeigler

2. Subject: Exemption from the Consolidated Procurement Code for Home Health Services

3. Summary Background Information:

Increasingly in today's health care environment, hospitals are discharging patients earlier thereby increasing the need for home health care. Home health services are delivered on a referral basis only, with hospitals being the primary source of referrals. The Department of Health and Environmental Control is the oldest provider of these services in the State and has heretofore provided the services through its full-time, part-time and contract program staff. In order to ensure the continuation of referrals, provide for continuity of patient care, ensure care for indigent patients and reduce the cost of health care, the Department of Health and Environmental Control (DHEC) must contract with hospitals and other private providers for a full array of coordinated home health services. For the most part the individual professional services that comprise "home health care" have been exempted from the Consolidated Procurement Code by previous actions of the Board. However, certain types of services that are provided by home health service deliverers have not been exempted. To provide a method for contracting for the full array of home health services on a turn key basis, DHEC has requested exemption for all contracts for home health services from the Procurement Code.

4. What is Board asked to do?

Under authority of Section 11-35-710 of the Consolidated Procurement Code, exempt procurements of contracts home health services.

5. What is the recommendation of Board Division involved?

Grant the exemption.

6. (a) List of Supporting Documents:

1. Section 11-35-710 of the Consolidated Procurement Code.
2. Request from Department of Health and Environmental Control

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

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EXHIBIT



Commissioner: Douglas E. Bryant

Board: Richard E. Jabbour, DDS, Chairman
Robert J. Stripling, Jr., Vice Chairman
Sandra J. Molander, Secretary

Promoting Health, Protecting the Environment

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STATE BUDGET & CONTROL BOARD
William E. Applegate, III,
Don H. Bullock
Tony Graham, Jr., MD
John B. Pate, MD

Office of General Counsel TEL (803) 734-4910 FAX (803) 734-5519

December 29, 1994

Ms. Helen Zeigler, Director
Budget and Control Board
Office of General Services
1201 Main Street
Columbia, SC 29201

Dear Ms. Zeigler:

The South Carolina Department of Health and Environmental Control formally requests an exemption from bid requirements for procurement of home health service personnel.

The Board already has exempted a number of health care services, including hospital and clinic services and personal services of registered nurses, licensed practical nurses, occupational therapists, speech pathologists, and physical therapists. Other personal services routinely provided by home health agencies, but not specifically exempted, include home health aides, social workers, and supply of durable medical equipment.

Due to the current health care environment, and the increasing costs of inpatient medical care, hospitals, insurance companies, and managed care organizations are requiring that patients be discharged from hospitals earlier, thereby increasing the volume of patients in need of home health services. These patients are sicker, and require more intensive and specialized home services than ever before. In addition, hospitals and managed care entities are looking to network with lower cost, higher quality providers offering continuity of care. This means that a home care service must be closely coordinated with inpatient hospital care to remain viable.

DHEC has an urgent need to contract with hospitals and other health care providers for the provision of the full array of home health services. Home health services are delivered on a referral basis only, with hospitals being the major source of referrals. In order to ensure the continuation of referrals and to provide continuity of care to existing patients, DHEC must contract with hospitals and other private providers for a full array of coordinated home health services.

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Ms. Helen Zeigler, Director
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STATE BUDGET & CONTROL BOARD

Currently, DHEC cannot contract for coordinated services because of bid requirements. Some services provided by home health personnel are not currently exempted, while the majority are. Since these contracts would include services that are not currently exempt, DHEC is prevented from negotiating coordinated services with hospitals from which we receive referrals. Without the ability to contract with these referral sources, DHEC is unable to continue to care for current patients, and to fund care for indigent patients.

DHEC has three major goals in its provision of home health services. These goals are: (1) ensuring continuity of care, (2) ensuring care to indigent patients, and (3) reducing the cost of health care.

DHEC is licensed in every county, and is the only home health provider statewide that can ensure continuity of care to patients discharged from in-state and out-of-state facilities. DHEC must be allowed to enter contracts providing for coordination of services. This would ensure that even before discharge from hospitals, the Department can begin follow-up treatment, ensuring continuity of care and high quality services.

Another primary responsibility of DHEC has been providing home health services for all patients, regardless of ability to pay. In the last fifteen years, Medicare and Medicaid, and to some extent private insurers, have drastically increased reimbursement levels for home care, thereby making the home health business an attractive business in the private, for-profit sector. But DHEC has been the primary provider to indigent patients throughout the state. Indigent patients are defined as those persons who receive no assistance from any source in paying for care, or those whose funding or allowed reimbursement is exhausted. South Carolina has a considerable population in this category, and DHEC is the primary provider. The funds received by DHEC as payment for home health services support services for these indigent clients. Without the income from DHEC's home health services, the state would be faced with an enormous financial burden for the health care of the indigent population. DHEC presently gets no state funds for indigent patients home health care.

Additionally, DHEC has historically been the lowest cost provider of home health services in the state. The private sector provides many services also provided by DHEC, but at a higher cost and reimbursement. Private providers generally bill patients at the highest amount that will be paid by Medicare and Medicaid, regardless of the cost of the service. Presently, the reimbursement levels allowed by Medicare and Medicaid are much higher than amounts billed by DHEC. DHEC's goal has been to keep the cost of care as low as possible, thereby decreasing the cost of care to the state, and increasing the number of people who could receive the services.

DHEC employs in excess of 1000 people, both directly and indirectly, in the provision of home health services. Many of these people are long-term state employees, including highly

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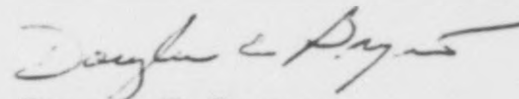
Ms. Helen Zeigler, Director
Page 3
December 22, 1994

STATE BUDGET & CONTROL BOARD

trained and specialized, licensed professionals, as well as home health aides and clerical support. Because they are committed to the mission of DHEC, the majority of these employees have remained with DHEC although they can command higher salaries in the private sector in state employment because of their longevity, insurance coverage, or lack of highly specialized and marketable skills. More importantly, these health care providers have established an essential therapeutic relationship with their patients which may be lost if the service is indiscriminately transferred. Continuity of patient care is a major DHEC concern as well as the continued employment of the loyal and dedicated professionals and service providers who have established themselves in the local communities. Through coordinated contracts, DHEC can ensure continued employment of these personnel.

For the foregoing reasons, DHEC reiterates its request for exemption from the Procurement Code for the full array of home health services, rather than being required to enter into a number of uncoordinated contracts based on bids for services. DHEC can meet these important goals only if it can contract on a negotiated basis with hospital providers ensuring continuity of care, care to the indigent, lower cost through coordination of services, and security for present employees. DHEC respectfully requests that this exemption be applicable statewide, as home health is a necessary and growing arena in the provision of health services.

Yours very truly,



Douglas E. Bryant
Commissioner

cc: Benjamin R. Lee, Jr., Deputy Commissioner for Administration
Michael Byrd, Director, Bureau of Home Health Services
Tony Lolas, Director, Bureau of Business Management

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the procurement, management, control and disposal of any and all supplies, services and construction to be procured by the State. Such regulations shall be binding in all procurements made by the State.

(2) **Nondelegation.** The board shall not delegate its power to promulgate regulations.

(3) **Approval of Operational Procedures.** Governmental bodies shall be authorized to develop internal operational procedures consistent with this code; provided, that such operational procedures shall be certified in writing by the appropriate chief procurement officer as being consistent with this chapter.

(4) **Board Oversight.** The board as a whole or acting through its procurement policy committee shall consider and decide matters of policy within the provisions of this code including those referred to it by the chief procurement officers. The board shall have the power to audit and monitor the implementation of its regulations and the requirements of this code.

SUBARTICLE 3

Exemptions

EXHIBIT

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STATE BUDGET & CONTROL BOARD

SECTION

11-35-710. Exemptions

§ 11-35-710. Exemptions.

The board may upon the recommendation of the Division of General Services, exempt governmental bodies from purchasing certain items through the respective chief procurement officer's area of responsibility. The board may exempt specific supplies or services from the purchasing procedures herein required and for just cause may by unanimous written decision limit or withdraw any exemptions provided for in this Section. The following exemptions are hereby granted in this chapter:

- (a) The construction, maintenance and repair of bridges, highways and roads; vehicle and road equipment maintenance and repair; and any other emergency type parts or equipment utilized by the Department of Transportation;
- (b) The purchase of raw materials by the South Carolina Department of Corrections, Division of Prison Industries;
- (c) S.C. State Ports Authority;
- (d) Division of Public Railways of the Department of Commerce;
- (e) S.C. Public Service Authority;
- (f) Expenditure of funds at state institutions of higher learning derived wholly from athletic or other student contests, from the activities of student organizations and from the operation of canteens and bookstores, except as such funds are used for the procurement of construction, architect-engineer, construction-management and land surveying services;
- (g) Livestock, feed and veterinary supplies;
- (h) Articles for commercial sale by all governmental bodies;
- (i) Fresh fruits, vegetables, meats, fish, milk and eggs;
- (j) South Carolina Arts Commission and South Carolina Museum Commission for the purchase of one-of-a-kind items such as paintings, antiques, sculpture and similar objects. Before any governmental body procures any such objects, the head of the purchasing agency shall prepare a written determination specifying the need for such objects and the benefits to the State. The South Carolina Arts Commission shall review such determination and forward a recommendation to the board for approval;
- (k) Published books, periodicals and technical pamphlets;
- (l) South Carolina Research Authority.

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STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

REC STATE BUDGET & CONTROL BOARD
ITEM NUMBER 8

AGENCY: General Services

SUBJECT: DOT Multi-term Contract

The Department of Transportation has developed an RFP to privatize the logo signing program for the state's interstate highway systems. Due to the initial capital investment, the successful contractor will be required to make in replacing existing signs, DOT has requested a ten-year contract period. The RFP has not yet been finalized, but the Office of General Services anticipates including options that would extend beyond the five-year period.

Regulation 19-445.2135(D) limits the maximum time for any multi-term contract to five years unless otherwise approved by the Budget and Control Board.

BOARD ACTION REQUESTED:

In accord with the provisions of Regulation 19-445.2135(D), grant the Office of General Services authority to exceed the five-year period in the award of a contract for the Department of Transportation logo signing program, if General Services determines that exceeding the five-year period is in the best interest of the State.

ATTACHMENTS:

Agenda item worksheet; Jones 11/28/94 letter; Logo Signing Program; Regulation 19.445.2135(d)

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BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: January 10, 1995

Regular Session

1. Submitted by:

- (a) Agency: Office of General Services
(b) Authorized Official Signature

Helen T. Zeigler
Helen T. Zeigler

2. Subject: Request from Department of Transportation to Extend Maximum Time for Multi-term Contract

3. Summary Background Information:

Regulation 19-445.2135(d), of the South Carolina Procurement Code, limits the maximum time for any multi-term contract to five (5) years unless otherwise approved by the Board. The South Carolina Department of Transportation (SCDOT) has developed an RFP to privatize the logo signing program for the State's Interstate Highway Systems. Due to the initial capital investment the successful contractor will be required to make in replacing existing signs, SCDOT has requested a 10 year contract period. The RFP has not yet been finalized, but the Office of General Services anticipates including options that would extend beyond the five (5) year period.

4. What is Board asked to do?

Under authority of Regulation 19-445.2135(D), grant the Office of General Services authority to exceed five (5) years in the award of the contract for the Logo Signing Program for SCDOT if the Office determines that is in the best interest of the State.

5. What is the recommendation of Board Division involved?

To approve the request as stated above.

6. (a) List of Supporting Documents:

1. Letter of Request from SCDOT
2. Executive Summary from SCDOT
3. Copy of Regulation 19-445.2135(D) of the S.C. Consolidated Procurement Code

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

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South Carolina
Department of Transportation
P.O. Box 191
Columbia, S.C. 29202-0191

Daniel P. Fanning, P.E.
Director

EXHIBIT

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

November 28, 1994

Mr. R. Voight Shealy, CPPO, C. P. M.
State Procurement Officer
Materials Management Office
P. O. Box 101103
Columbia, S. C. 29211

Dear Mr. Shealy:

Request for Proposals for Logo Signing Program for the South Carolina Department of Transportation

The South Carolina Department of Transportation is in the process of finalizing a request for proposals for administering the Specific Service Signing Program (Logo) for this Agency. A draft copy of the proposal is attached. Mr. John Stevens of your office is familiar with this R. F. P.

The Logo Signing program provides travelers with business identification and directional information for motorist services located at interchanges along our interstate highways. Presently the program is administered by the SCDOT, with Department forces erecting new background panels and business signs as required. We intend to select a private company to assume the administration, construction and maintenance responsibilities of the Logo Program which is currently performed by the SCDOT. This company will be required to replace existing background panel signs which have been determined to have unsatisfactory retroreflectivity or legibility.

We expect the Company to spend approximately 1 1/2 to 2 million dollars erecting new signs and replacing existing signs during the first two years of contract. The Company will receive revenue from the businesses whose signs are placed on the Logo panels.

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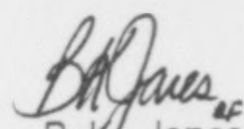
Due to the high cost involved in the initial sign installations, the Company will not be able to achieve a reasonable return on its investment unless a contract term of ten years is approved. A ten year contract is desirable for several reasons. The signing material used on the signs has a life of ten years which would allow the contract to expire at the approximate time the signs will need refurbishing again. Also, in order to keep the cost to the participating businesses at a reasonable level, a ten year contract is needed so that the initial construction cost outlay can be amortized over the ten year period.

A number of states have privatized their Logo Signing Program and several of the states have used the ten year contract to hold down costs to the businesses and to coincide with the sign life.

We are requesting approval by the Budget and Control Board to implement a ten year contract with the company selected after the proposals have been received.

Please advise if there is anything else we need to furnish you in order to have this matter considered by the Budget and Control Board at their next meeting. Also, please advise if we need representatives at that meeting to answer questions.

Sincerely,


B. K. Jones
Director

CC: Norma Hall., Director of Procurement
Director of Traffic Engineering

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EXHIBIT**Logo Signing Program**

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

Introduction

South Carolina's Specific Information Service (Logo) Signing Program was implemented in 1979 to inform motorists of the services available at an interchange. Initially, the Program was limited to I-95, but since that time all interstates have been included, with I-77 being completed in 1989. Presently, the Department maintains 486 mainline and 321 ramp sign panels for the over 450 participating businesses. The following will highlight changes to the Department's program, outline the administration of the program, detail the program's cost, and discuss the effects and options of privatization.

Recent Changes

In order to better serve the motoring public, and participating businesses, the Department revised its regulations for logo signing during the 1993-1994 fiscal year. The changes include definitions to clarify terms frequently used during the Program's administration, increasing the distance for camping businesses, and the expansion of food, lodging, and camping panels to allow 6 participants for each (gas panels already allowed for 6 participants).

Current Procedures

Presently, two offices within the Department administer the Logo Program. The Outdoor Advertising Office handles the initial business approval and billing, while Traffic Engineering oversees the approval of business sign designs and coordinates with Maintenance for the installation and removal of logo background panels and business signs. The following outlines the process for a new participant to have business signs erected on a logo panel.

1. *Contact Outdoor Advertising.* A business initiates the logo process by contacting Outdoor Advertising and requesting that it be inventoried for compliance to the Department's Regulations (June 16, 1994). Outdoor Advertising will then send the respective district coordinator to inventory the business.
2. *Approval.* The district coordinator will then submit their findings to Outdoor Advertising's Columbia office for an objective decision on the business's compliance. This decision is approved by Interim Director B. K. Jones.
3. *Payment & Contract.* Approved businesses are then billed and sent a contract regarding their participation in the Logo Program. Presently, the fees are as follows:

\$240⁰⁰ for each mainline business sign

\$120⁰⁰ for each ramp business sign

\$100⁰⁰ for each business sign installation or replacement

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All participants are required to have 2 mainline signs, while the erection of ramp signs is based on the business's visibility (this is determined during Outdoor Advertising's initial inventory). For example, an Amoco station not visible from either ramp would be required to have 2 mainline and 2 ramp business signs. Initially this business would be charged \$1120, this includes the first year's participation and the installation fee (see calculation below).

2 Mainline Signs: $2 * \$240 = \480

2 Ramp Signs: $2 * \$120 = \240

Total for Participation: \$720

Installation: $4 * \$100 = \400

Total for Participation and installation: $\$720 + \$400 = \$1120$

4. *Business Sign Drawings.* Businesses not having previously approved drawings on file with Traffic Engineering are also required to submit their drawings for approval. This is done in conjunction with Outdoor Advertising's billing notice. Drawings are checked against our standards, SPECIFICATIONS: BUSINESS SIGNS (rev. August 11, 1994), by Traffic Engineering personnel. A copy of the approved drawing is then returned to the business and 2 copies are retained by the Department.
5. *Panel Erection and Business Sign Installation.* Once Outdoor Advertising confirms that a business has paid the required fees, Traffic Engineering initiates the installation process. If this is a new installation (i.e. no previous participants for the type of service at the interchange), background panels will have to be fabricated and I-beam breakaway posts installed before business signs can be attached.

Background panels for all logo signs not erected under contract are fabricated at the Greenville Regional Sign Shop and installed by Maintenance forces. The posts for these signs are designed by Traffic Engineering and requisitioned from a private contractor. The Purchasing Section oversees this requisitioning and the Resident Maintenance Engineer approves the contractor's I-beam post installations. Once the posts are installed by the contractor, the background panel is installed by Maintenance. Finally, one to six business signs are pop-riveted to the panel by Maintenance.

6. *Removal, Replacement, and Bumps.* Over the life of a background panel some participants may withdraw, signs will become damaged or deteriorated requiring replacement, and some businesses will be bumped by new participants. When signs become worn, a business may request replacement or Traffic Engineering may require replacement based on the signs' legibility. The replacement fee of \$100 per sign (mainline or ramp) is assessed by Outdoor Advertising, and Maintenance handles the actual replacement. Traffic Engineering correlates the delivery of the business signs and their installation.

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When a 7th business becomes eligible, participation is allowed for the 6 closest businesses to the interchange. In such cases, the farthest business is *bumped*. However, all businesses are entitled to 1 year of participation, if they are initially accepted into the program. For example, if a Hardees located 1.9 miles from the interchange begins participation as the sixth and most distant business in May 1994, it will have its signs displayed until May 1995. If a Cracker Barrel located 1.8 miles applies in October 1994, and is closer than Hardees but farther than all of the other participants, it cannot begin participation until May 1995. This is when the Hardees, the most distant participant, may be bumped.

Program Costs

The cost of administering the Program is spread in the offices of Outdoor Advertising, Traffic Engineering, and Maintenance. Also, there will be a cost of background panel replacement. This will likely be accomplished with a statewide contract. Through the 1993-1994 fiscal year, logo receipts totaled \$2.21 million. Expenditures in the Program have totaled \$1.58 million, including sign installation costs.

Previously, the Department has spent \$333,600 under contract to install logo signs. However, these were federally assisted projects, so the Department's cost was only 10% of the total project cost. Future contracts will not be assisted and will require 100% state funds. Replacement of all existing signs will be required over the next 10 years. This is based on the age of the panels as well as the new requirements for food, lodging, and camping. The following is an average cost of panel replacement over the next 10 years. This assumes we replace 10% per year, even though 80% of the signs currently need replacing.

Fiscal Year	Mainline Panels	Ramp Panels	Average Cost
1994-1995	50	35	\$282,600
1995-1996	50	34	\$282,600
1996-1997	50	34	\$282,600
1997-1998	48	32	\$282,600
1998-1999	48	32	\$282,600
1999-2000	48	32	\$282,600
2000-2001	48	32	\$282,600
2001-2002	48	32	\$282,600
2002-2003	48	32	\$282,600
2003-2004	48	32	\$282,600
Total	486	327	\$2,826,000

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EXHIBIT

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STATE BUDGET & CONTROL BOARD

Privatization

As the Department searches for ways to more effectively and efficiently administer this program, privatization is an appealing and innovative option. Several states, including Kansas, Kentucky, and Mississippi, have recently converted state run programs to private ones. By privatizing the Department could greatly reduce its responsibilities in the Program, further marketing the program to potential participants, and shifting the cost of panel replacement to the participants and a private company.

If a private company were selected to run the logo program, the company would inventory businesses, bill qualified applicants, and erect business signs and background panels. The Department would only be responsible for selecting panel locations, approving business sign designs, and approving completed installations. One office would accomplish this as well as monitor the activities of the private company.

The private company will also market the Program to new businesses, thus expanding the Program's effectiveness. More importantly, the private company would be responsible for replacing the existing logo panels. This would eliminate the actual sign cost to the Department which would free funds for other pressing needs.

Funding Options

If the Department pursues privatization, there are several options that must be explored. In privatizing state programs, many different approaches have been used, including the Set Business Cost plan, the Fixed Revenue plan and the Mississippi plan. The following is a breakdown of each plan.

1. *Set Business Cost Plan.* In this plan, the Department would set the amount each business would pay, then allow the private companies to tell how much revenue they will pay the Department. The advantage to this proposal is that it allows the Department to get the best value for its existing program, while not making cost the only consideration. The disadvantage to this plan is that the Department must determine the cost to the business without the knowledge of what it will cost to maintain a private program. Also, it may attract less qualified, cut-rate bidders.
2. *Fixed Revenue Plan.* With this plan, the state's requirements sets its required revenue and lets the private companies bid for the lowest business cost. This revenue may be a set amount for each logo panel erected on state rights-of-way or it may be a percentage of the Program's overall profits. The advantage is that this keeps the cost to participants low while fulfilling all of the state's financial needs from a program. The disadvantage is that it could attract less qualified bidders, and it may offer incentive for companies to drop the business fees initially, only to request that they be raised later.
3. *Mississippi Plan.* In their Request for Proposal (RFP), Mississippi set the amount each business would be charged as well as the amount that would be

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paid to the state. The advantage to this plan is that it removes the financial considerations in selecting a private company and allows the company to be selected based on their ability to manage the program. The disadvantage is that the fee set by the Department may not accurately portray the amount needed to run a program. Mississippi set a fee of \$1200 to be charged to each business annually for participation, and \$50 per sign for installation/ removal/ repair. Also Mississippi will be paid \$100,000 a year for allowing the private company to use their existing background panels, and \$50,000 a year to cover administrative costs. Their contract is for 10 years. They derived the \$100,000 yearly charge from the fact that they owe 1 million dollars to pay off their initial logo installations.

The following projects the Department's profits over the next 10 years if the Program continues as a state run plan and if it were to be operated under the Mississippi plan.

Projected State Run Program

Fiscal Year	SCDOT Costs	SCDOT Revenue	SCDOT Profit
1994-1995	\$410,600	\$308,900	(\$101,700)
1995-1996	\$413,100	\$316,000	(\$97,100)
1996-1997	\$415,700	\$319,100	(\$96,600)
1997-1998	\$418,500	\$322,300	(\$96,200)
1998-1999	\$421,100	\$325,600	(\$95,500)
1999-2000	\$423,900	\$328,800	(\$95,100)
2000-2001	\$426,800	\$332,100	(\$94,700)
2001-2002	\$429,600	\$335,400	(\$94,200)
2002-2003	\$432,600	\$338,800	(\$93,800)
2003-2004	\$435,600	\$342,200	(\$93,400)
Totals	\$4,227,500	\$3,269,200	(\$958,300)

Total Projected Revenue	\$3,269,200
Total Projected Expenditures	\$4,227,500
Projected Deficit	(\$958,300)

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EXHIBIT

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STATE BUDGET & CONTROL BOARD

Projected Mississippi Type Program

Fiscal Year	SCDOT Costs	SCDOT Revenue	SCDOT Profit
1994-1995	\$60,000	\$150,000	\$90,000
1995-1996	\$40,000	\$150,000	\$110,000
1996-1997	\$40,400	\$150,000	\$109,600
1997-1998	\$40,800	\$150,000	\$109,200
1998-1999	\$41,200	\$150,000	\$108,800
1999-2000	\$41,600	\$150,000	\$108,400
2000-2001	\$42,000	\$150,000	\$108,000
2001-2002	\$42,500	\$150,000	\$107,500
2002-2003	\$42,900	\$150,000	\$107,100
2003-2004	\$43,300	\$150,000	\$106,700
Totals	\$434,700	\$1,500,000	\$1,065,300

Total Projected Revenue	\$1,500,000
Total Projected Expenditures	\$434,700
Projected Profit	\$1,065,300

Privatization is a viable means of upgrading our Logo Signing Program. We can reduce the state's cost, keep participation rates reasonable, and enable the Program to better accomplish its objectives. Privatization will change a low priority state function to a customer oriented program.

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EXHIBIT

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STATE BUDGET & CONTROL BOARD

The following exemptions are hereby granted in this Regulation:

- (1) Highway Department - lands leased for maintenance and construction purposes;
- (2) Mental Health - Community Mental Health Centers;
- (3) Corrections - farm lands;
- (4) Mental Retardation - farm lands;
- (5) Forestry - forest lands;
- (6) Parks, Recreation and Tourism - state parks and recreation lands;
- (7) Wildlife and Marine Resources - game management areas.

19-445.2125. Responsibility of Bidders and Offerors.

A. State Standards of Responsibility.

Factors to be considered in determining whether the state standards of responsibility have been met include whether a prospective contractor has:

- (1) available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements;
- (2) a satisfactory record of performance;
- (3) a satisfactory record of integrity;
- (4) qualified legally to contract with the State; and
- (5) supplied all necessary information in connection with the inquiry concerning responsibility.

B. Duty of Contractor to Supply Information.

The prospective contractor shall supply information requested by the procurement officer concerning the responsibility of such contractor. If such contractor fails to supply the requested information, the procurement officer shall base the determination of responsibility upon any available information or may find the prospective contractor non-responsible if such failure is unreasonable.

C. Demonstration of Responsibility.

The prospective contractor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

- (1) evidence that such contractor possesses such necessary items;
- (2) acceptable plans to subcontract for such necessary items; or
- (3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

D. Justification for Contract Award.

Before awarding a contract, the procurement officer must be satisfied that the prospective contractor is responsible.

E. Written Determination of Nonresponsibility.

If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the findings shall be prepared by the Chief Procurement Officer or the procurement officer of the governmental body. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the procurement file.

19-445.2130. Prequalification of Supplies and Suppliers.

A. Qualified Products Lists.

A qualified products list may be developed with the approval of the Chief Procurement Officer or the procurement officer of the governmental body authorized to develop qualified products lists, when testing or examination of the supplies or construction items prior to issuance of the solicitation is desirable or necessary in order to best satisfy state requirements. The procedures for the inclusion of a product on the qualified products list ("QPL") must be available to prospective vendors for consideration of their product to the list.

B. Prequalification.

Prospective contractors may be prequalified for bidder lists, but distribution of the solicitation shall not be limited to prequalified contractors nor may a prospective contractor be denied award of a contract simply because such contractor was not prequalified. The fact that a prospective contractor has been prequalified does not necessarily represent a finding of responsibility.

19-445.2135. Conditions for Use of Multi-Term Contracts.

A. General.

A multi-term contract is appropriate when it is in the best interest of the State to obtain uninterrupted services extending over one fiscal period, where the performance of such services involves high start-up costs, or when a

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EXHIBIT

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

changeover of service contracts involves high phase-in/phase-out costs during a transition period. The multi-term method of contracting is also appropriate when special production of definite quantities of supplies for more than one fiscal period is necessary to best meet state needs but funds are available only for the initial fiscal period. Special production refers to production for contract performance when it requires alteration in the contractor's facilities or operations involving high start-up costs. The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds thereof. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be cancelled.

B. Objective.

The objective of the multi-term contract is to promote economy and efficiency in procurement by obtaining the benefits of sustained volume production and consequent low prices, and by increasing competitive participation in procurements which involve special production with consequent high start-up costs and in the procurement of services which involve high start-up costs or high phase-in/phase-out costs during changeover of service contracts.

C. Rule Inapplicable.

This Regulation 19-445.2135 applies only to contracts for supplies or services described in Subsection A of this Regulation and does not apply to any other contract including, but not limited to, contracts for construction and leases of real property.

D. Conditions for Use.

The maximum time for any multi-term contract is five (5) years unless otherwise approved by the Board. A multi-term contract may be used when it is determined in writing by the Procurement Officer of the governmental body that:

(1) special production of definite quantities or the furnishing of long-term services are required to meet state needs; or

(2) a multi-term contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement.

The following factors are among those relevant to such a determination:

(1) firms which are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;

(2) lower production cost because of larger quantity or service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;

(3) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality;

(4) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

E. Solicitation.

The solicitation shall state:

(1) the estimated amount of supplies or services required for the proposed contract period;

(2) that a unit price shall be given for each supply or service, and that such unit prices shall be the same throughout the contract (except to the extent price adjustments may be provided in the solicitation and resulting contract);

(3) that the multi-term contract will be cancelled only if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal period succeeding the first; however, this does not affect either the state's rights or the contractor's rights under any termination clause in the contract;

(4) that the procurement officer of the governmental body must notify the contractor on a timely basis that the funds are, or are not, available for the continuation of the contract for each succeeding fiscal period;

(5) whether bidders or offerors may submit prices for:

(a) the first fiscal period only;

(b) the entire time of performance only; or

(c) both the first fiscal period and the entire time of performance;

(6) that a multi-term contract may be awarded and how award will be determined including, if prices for the first fiscal period and entire time of performance are submitted, how such prices will be compared; and

(7) that, in the event of cancellation as provided in (5) (c) of this Subsection, the contractor will be reimbursed the unamortized, reasonably incurred, nonrecurring costs.

004204

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STATE BUDGET AND CONTROL BOARD

STATE BUDGET & CONTROL BOARD
REGULAR SESSION

MEETING OF January 10, 1995

ITEM NUMBER 9

AGENCY: General Services

SUBJECT: Sale of State Car

State Treasurer Grady L. Patterson, Jr. has requested permission to purchase his state car, a 1991 Mercury Marquis, when he leaves office. The projected odometer reading at the time of disposal is 73,790 miles. The appraised value is \$5,125 with a total sale price of \$5,381.25, including tax.

Although the Board's policy governing sale of property to retiring state employees does not apply to constitutional officers, this request meets the established criteria of being within the last 15% of its recommended life cycle. The proposed sale price reflects the current fair market value of the vehicle based on the NADA Used Car Guide.

General Services recommends approval of the request.

BOARD ACTION REQUESTED:

Authorize the sale of a 1991 Mercury Marquis at the appraised value of \$5,125 with a total sale price of \$5,381.25, including tax, to State Treasurer Grady L. Patterson, Jr. when he leaves office.

004205

ATTACHMENTS:

Agenda item worksheet; Taylor 12/22/94 memo; Huey 12/20/94 letter; Code Section 1-11-310; Regulation 19-607; State Fleet Management Office Disposal Criteria

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET (Revised 1/91)

For meeting scheduled for:

January 10, 1995

Blue Agenda
☒ Regular Session
☐ Executive Session

1. Submitted by: (a) Agency: General Services
(b) Authorized Official Signature _____

2. Subject: Sale of State Car

3. Summary Background Information:

State Treasurer Grady L. Patterson, Jr. has requested permission to purchase his state car, a 1991 Mercury Marquis, when he leaves office. The projected odometer reading at the time of disposal is 73,790 miles. The appraised value is \$5,125 with a total sale price of \$5,381.25 including tax.

Although the Board's policy does not apply to Constitutional Officers this request meets the established criteria of being within the last 15% of its recommended life cycle and the proposed sale price reflects the current fair market value of the vehicle based on the NADA Used Car Guide.

General Services recommends approval of the request.

What is Board asked to do?

Approve.

5. What is recommendation of the Board division involved?

Authorize the sale of a 1991 Mercury Marquis at the appraised value of \$5,125 with a total sale price of \$5,381.25 including tax, to State Treasurer Grady L. Patterson, Jr. when he leaves office.

6. Recommendation of other office (as required)?

Office Name _____	Authorized Signature _____
-------------------	-------------------------------

7. Supporting Documents:

List those attached:

1. Taylor 12/22/94 memo;
2. Huey 12/20/94 letter; Code Section 1-11-310; Regulation 19-607;
3. State Fleet Management Office Disposal Criteria.

List those not attached
but available:

004206

EXHIBIT

STATE OF SOUTH CAROLINA

JAN 10 1995

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State Budget and Control Board

OFFICE OF GENERAL SERVICES

STATE BUDGET & CONTROL BOARD

CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL



HELEN T. ZEIGLER
DIRECTOR

MATERIALS MANAGEMENT OFFICE
1201 MAIN STREET, SUITE 600
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-0600
Fax (803) 737-0639

WILLIAM E. GUNN
ASSISTANT DIRECTOR

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

RECEIVED

DEC 28 1994

Division of General Services
Administration

MEMORANDUM

TO: Helen Zeigler
Director
Office of General Services

FROM: Walter A. Taylor
Executive Manager
Supply and Surplus Property

DATE: December 22, 1994

The fair market appraised value of the following items which Mr. Grady Patterson wishes to purchase upon his retirement is:

1991 Mercury Marquis	5,125.00
Mileage: 73,790	
SC Sales Tax	<u>256.25</u>
TOTAL VALUE	5,381.25

004207

MARION U. DORSEY, P.E.
OFFICE OF THE
STATE ENGINEER
(803) 737-0770

VOIGHT SHEALY
STATE
PROCUREMENT
(803) 737-0600

RON MOORE
INFORMATION
TECHNOLOGY
MANAGEMENT
(803) 737-0600

LARRY G. SORRELL
AUDIT
& CERTIFICATION
(803) 737-0600

JAMES J. FORTH, JR.
QUALITY ASSURANCE
(803) 737-0600

WALT TAYLOR
STATE & FEDERAL
SURPLUS
PROPERTY
(803) 822-5490

WALT TAYLOR
CENTRAL SUPPLY
& INTERAGENCY
MAIL SERVICE
(803) 734-7919

STATE OF SOUTH CAROLINA

OFFICE OF STATE TREASURER

GRADY L. PATTERSON, JR.
STATE TREASURERCOLUMBIA
29211

R. O. CHAMBERLAIN

EXHIBIT

December 20, 1994

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

Dr. Fred Carter
Executive Director
State Budget and Control Board
Wade Hampton State Office Building
Columbia, South Carolina 29201

Dear Dr. Carter:

The State Treasurer is interested in purchasing the vehicle he has leased for the past 3 years, a 1991 Mercury Marquis with 75,000 miles.

We would appreciate your advising us of the estimated value as well as the procedure for such purchase, if possible.

If you need any additional information or need to make arrangements to see the car, please contact me or Carolyn Phillips at 734-2644.

With kindest regards, I am

Very truly yours,

Sandy
Sandy A. Huey
Deputy State Treasurer

SAH:fm

004208

Post-It® brand fax transmittal memo 7671		# of pages	1
To	Helen Z		
From	Rick Kelly		
Co.	Co.		
Dept.	Phone #		
Fax #	Fax # 7-0592		

DEC 20 1994

Budget and Control Board
Office of the Executive Director

All fuels, lubricants, parts and maintenance costs including those purchased from commercial vendors shall be charged to a state credit card bearing the license plate number of the vehicle serviced and the bill shall include the mileage on the odometer of the vehicle at the time of service.

HISTORY: 1978 Act No. 644 Part II § 24(H).

§ 1-11-300. Agencies to develop and implement uniform cost accounting and reporting system; purchase of motor vehicle equipment and supplies; use of credit cards; determination of vehicle cost per mile.

In accordance with criteria established by the Board, each agency shall develop and implement a uniform cost accounting and reporting system to ascertain the cost per mile of each motor vehicle used by the State under their control. Agencies presently operating under existing systems may continue to do so provided that Board approval shall be required and that the existing systems shall be uniform with the criteria established by the Board. Beginning July 1, 1981, all routine expenditures on a vehicle including gasoline and oil shall be purchased from state-owned facilities and paid for by the use of Universal State Credit Cards except in unavoidable emergencies. The Board shall promulgate regulations regarding the purchase of motor vehicle equipment and supplies to ensure that agencies within a reasonable distance are not duplicating maintenance services or purchasing equipment that is not in the best interest of the State. The Board shall develop a uniform method to be used by the agencies to determine the cost per mile for each vehicle operated by the State.

HISTORY: 1978 Act No. 644 Part II § 24(I); 1982 Act No. 429, § 6.

§ 1-11-310. Division of Motor Vehicle Management; acquisition and disposition of vehicles; titles.

The Budget and Control Board shall purchase, acquire, transfer, replace and dispose of all motor vehicles on the basis of maximum cost-effectiveness and lowest anticipated total life cycle costs. All state motor vehicles shall be titled to the State. All such titles shall be received by and remain in the possession of the Division of Motor Vehicle Management pending sale or disposal of the vehicle.

Titles to school buses and service vehicles operated by the State Department of Education and vehicles operated by the South Carolina Department of Highways and Public Transportation shall be retained by those agencies.

HISTORY: 1978 Act No. 644 Part II § 24(J).

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

MOTOR VEHICLE MANAGEMENT

R 19-607

of Highways and Public Transportation and Department of Education vehicles, at the time of purchase or acquisition, shall be registered with the Department of Highways and Public Transportation, showing the State of South Carolina as the owner.

(3) New vehicles delivered to the State require the following to be completed by the vendor before forwarding to DMVM:

(a) DHPT Form 400;

(b) Odometer (mileage) Statement - Note that the transfer-ee's name and address is to be used;

(c) Certificate of origin.

(4) Used, donated, transferred or confiscated vehicles are to be registered through DMVM as are new vehicles. Properly executed and notarized title or bill of sale to the vehicle or a court order transferring possession to the State; and

(a) DHPT Form 400;

(b) Odometer (mileage) Statement.

D. Decals, Signs and Stickers. Decals, signs, and stickers other than license tags and official decals may be displayed on state-owned vehicles under the following conditions:

(1) Decals, signs, and stickers required by law or permitted by this regulation;

(2) Agency or commercial parking lot decals;

(3) Agency administrative or control decals;

(4) Others as may be approved by the Board.

19-607. Disposal of State-owned Vehicles.

A. Authority.

The sale of all state-owned vehicles that qualify for disposal or units declared to be excess to needs, shall be conducted as directed by the Board, through the Division of General Services. Sales shall be held at such places and in such manner as are deemed to be most advantageous to the State. Sales shall be conducted at public auction to the highest bidder unless otherwise provided by regulation.

B. Disposal Criteria.

DMVM shall determine whether a vehicle is past advantageous useful life to the State before allowing its sale or disposal.

C. Disposal Procedures.

(1) When a state-owned motor vehicle has reached or exceeded the recommended disposal criteria or is excess to the needs of the owning agency, section II of DMVM Form 6-77 shall

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be prepared in five (5) copies. The original and three (3) copies will be forwarded to DMVM, except for school buses and service vehicles on the property accounts of the Department of Education.

(2) The State Fleet Manager shall determine whether the vehicle is excess to the needs of the State. If disposal or transfer is recommended, DMVM Form 6-77 shall be approved and returned to the owning agency.

(3) The State Surplus Property Officer shall sell the vehicle for the agency unless otherwise provided by regulation.

(4) The following documents are to be provided to the Surplus Property Officer:

(a) Copy of approved DMVM Form 6-77;

(b) Vehicle Condition Report;

(c) Mileage Disclosure Statement which should be completed with the exception of the current odometer reading which will be noted when the vehicle is delivered for sale;

(d) Affidavit of Permanent SG, CG, MG and RG license plate (DHPT Form 405) accompanied by the license plate. All license plates shall be removed before the sale;

(e) A memorandum from the owning agency indicating the minimum acceptable sale price. If no price is given, the Surplus Property Officer will set a minimum price. The Surplus Property Officer may adjust the minimum sale price at his discretion.

(5) Proceeds from sales, less sales expense, will be returned to the owning agency except in cases where the units are not to be replaced. In case of a surplus sale, proceeds shall be returned to the general fund of the State. Proceeds received by the Department of Highways and Public Transportation from sales of obsolete and surplus equipment shall be retained by that agency as provided by law.

(6) License plates, seals, decals, and other identification strips shall be removed from vehicles before delivery to the Surplus Property Officer.

D. Types of Disposal.

(1) Public Auction. The preferred method of sale is public auction, selling to the highest qualified bidder.

(2) Sealed Bid. Sale by sealed bid shall be permitted when the vehicle cannot be readily moved for auction.

(3) Negotiated Sale. Negotiated sale is permitted when a vehicle

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

MOTOR VEHICLE MANAGEMENT

R 19-609

has been offered for sale at a price not met by the high bidder, or in cases where DMVM approves negotiated sale. Negotiated sales may be made to political sub-divisions, eleemosynary organizations, or for trade-in transactions.

(4) Salvage or Scrap Sale. This sale is normally conducted on wrecked vehicles, or when the value of the unit has been reduced to scrap.

(5) Transfer to Another State Agency. Transfer of a vehicle to another state agency shall be accomplished, rather than disposal, when the vehicle has continuing useful life.

19-608. Reimbursement Policy for Use of Privately-owned Vehicles.

A. State-owned motor vehicles are intended for use by officials, officers and employees of the State who are required to travel by motor vehicle in the performance of official business.

B. Personal vehicles shall not be used to accomplish official travel on a reimbursable basis when a state-owned vehicle is available and adequate to meet necessary travel requirements.

C. Exceptions to this policy may be approved by the agency director authorizing the travel to meet agency requirements.

D. Prior to granting an exception, the agency director shall verify that no other agency vehicle is available or adequate to meet the travel needs nor is a vehicle available at DMVM interagency or local agency motor pool.

E. This policy does not preclude the use of aircraft nor car rental services.

19-609. Complaints as to Use of State-owned Vehicles.**A. Action by the Division Upon Receipt of a Complaint.**

(1) When a complaint is made to DMVM as to misuse of a state-owned vehicle, the person taking the complaint will complete complaint work sheet provided by DMVM. This information will include the caller's full name, address and telephone number.

(2) Anonymous complaints shall be referred to the agency concerned as information.

(3) In the event a reply is requested by the complainant, sufficient information shall be provided by the controlling agency to enable DMVM to prepare a proper response.

(4) Neither the name of the complainant nor the person against whom the complaint is made shall be released to sources

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EXHIBIT

JAN 10 1995

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R 19-604

STATE BUDGET AND CONTROL BOARD

STATE BUDGET & CONTROL BOARD

- (1) Odometer disclosure statement; and
- (2) DHPT Form 400.

[See main pamphlet for remainder of regulation]

Effect of Amendment—

The 1983 amendment, effective June 24, 1983, in subsection C(1)(c), deleted former (1) which related to an unencumbered title or bill of sale, and redesignated former 2 and 3 as 1 and 2 respectively.

19-607. Disposal of State-owned Vehicles.

[See main pamphlet for A and B]

C. Disposal Procedures.

- (1) When a state-owned motor vehicle has reached or exceeded the recommended disposal criteria or is excess to the needs of the owning agency, Section II of DMVM Form 6-77 shall be prepared in five (5) copies. The original and three (3) copies will be forwarded to DMVM, except for school buses and service vehicles on the property accounts of the Department of Education and the Department of Highways and Public Transportation.

[See main pamphlet for remainder of regulation]

Effect of Amendment—

The 1983 amendment, effective June 24, 1983, in subsection C(1) inserted "and the Department of Highways and Public Transportation".

19-611. Credit Cards.

A. Use of Credit Cards.

- (1) Official State of South Carolina credit cards issued by the State Budget and Control Board are valid for the purchase of gasoline, oil, lubricants, diesel fuel and other related petroleum products in an amount not to exceed the rated capacity of the vehicle or equipment. Restricted emergency repairs, not to exceed a limit set by DMVM, are also permitted.

[See main pamphlet for (2)-(4)]

B. Operator Responsibility.

Vehicle operators shall protect cards against loss or theft. Missing cards shall be reported immediately to the agency head and the DMVM. For purchases, the operator shall verify all information on the delivery ticket, including price, correct license or equipment number and total price of purchase before signing. When authorized minor services or repairs are made, the operator shall obtain an itemized statement showing charges for parts, labor and incidental charges.

C. Agency Responsibility.

- (1) The State Budget and Control Board shall purchase and issue official state credit cards.

[See main pamphlet for (2) and (3)]

- (4) The agency shall notify the appropriate State Budget and Control Board Division of changes in billing addresses. The using agency shall promptly pay invoices for credit card purchases.

[See main pamphlet for (5) and (6)]

- (7) The State Budget and Control Board shall not be held accountable for any charges incurred through the use, authorized or unauthorized, of any credit cards except the legitimate purchases made with credit

A.

DISPOSAL CRITERIA

<u>Vehicle Type</u>	<u>Vehicle Description</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Mileage</u>
1	Subcompact sedans/station wagons	4	5	60,000
2	Compact sedans/station wagons and above	4	6	70,000
3	Trucks, below 10,500 GVW 3/4 ton	4	6	70,000
4	Vans, passenger/cargo	5	6	80,000
5	Trucks, over 10,500 GVW	6	7	80,000
6	Bus, other than school, gasoline	8	9	90,000
7	Trailers/semi-trailers	15	N/A	N/A
8	Trucks, tractors	12	15	90,000
9	Motorcycle	4	5	25,000
10	Scooter, 3 wheel	3	4	12,000
11	Bus, road type, diesel	15	N/A	200,000

B.

REPAIR CRITERIA

<u>Vehicle Type</u>	<u>Age in Years</u>									
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>
1	80	65	50	30	10	5				
2	80	65	50	30	10	5				
3	80	65	50	30	10	5				
4	80	65	50	30	20	10	5			
5	80	70	60	30	25	15	10	5		
6	80	70	60	30	25	15	10	5		
7	80	75	70	65	60	55	50	45	40	35
8	80	75	70	65	60	55	50	45	40	35
9	60	40	20	10	5					
10	50	40	20	5						
11	90	85	80	75	70	65	60	55	50	45

"Vehicle type" code used herein is for brevity and should not be confused with other vehicle codes in this manual.

EXHIBIT

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

% of current wholesale value of vehicles that could be spent on major, one-time repairs.

004214

EXHIBIT

JAN 10 1995

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STATE BUDGET AND CONTROL BOARD
MEETING OF January 10, 1995

STATE BUDGET AND CONTROL BOARD
ITEM NUMBER 10

AGENCY: Local Government

SUBJECT: Grant Request, Georgetown County

Georgetown County requests \$250,000 to assist in providing the water and sewer infrastructure to allow for major expansion and improvement at Huntington Beach State Park. This is part of a \$1,000,000 package, and all other sources of funding have been secured. The infrastructure investment is part of an overall \$38,000,000 tourism project expansion which includes the Brookgreen Garden Complex.

The Office of Local Government received a supplemental appropriation of \$4.3 million for the Infrastructure Grant Revolving loan Fund to assist with infrastructure projects in economically distressed areas as provided for in Code Section 41-43-180. JEDA developed the listing designating 17 counties qualifying as economically distressed areas. Georgetown County has been designated as an economically distressed area.

BOARD ACTION REQUESTED:

Approve a grant of \$250,000 from the Infrastructure Grant Revolving Fund for Georgetown County to assist in providing the water and sewer infrastructure to allow for major expansion and improvement at Huntington Beach State Park.

ATTACHMENTS:

Agenda item worksheet; Franks 8/29/94 memo; McKown 1/6/95 letter; Brookgreen Project Summary

004215

NON-PROFIT

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

Meeting Scheduled for: *January 10, 1995*

Agenda: *Regular*

1. Submitted By:

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

(b) Authorized Official Signature: *Nancy W. Dennis*

2. Subject:

Budget and Control Board Grant Program request by Georgetown County (Grant Agreement No. 708).

3. Summary and Background Information:

Georgetown County is requesting \$250,000 to assist in providing the water and sewer infrastructure to allow for major expansion and improvement at Huntington Beach State Park. This is part of a \$1 million package, and all other sources have been secured.

The infrastructure investment is part of an overall \$38 million tourism project expansion which includes the Brookgreen Garden Complex.

NOTE: The Budget and Control Board Office of Local Government received a supplemental appropriation of \$4.3 million for the "Infrastructure Grant Revolving Loan Fund" to assist with infrastructure projects in economically distressed areas as provided for in Section 41-43-180 of the 1976 Code. JEDA developed the listing designating 17 counties qualifying as economically distressed areas.

4. What is Board asked to do?

Georgetown County has been designated as an economically distressed area. The Board is asked to approve this request in the amount of \$250,000 from the Infrastructure Grant Revolving Fund.

5. What is recommendation of Board Division involved?

Approve request in the amount of \$250,000 from the Infrastructure Grant Revolving Fund.

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

(a) Authorized Signature: _____

(b) Division/Agency Name: _____

7. Supporting Documents

(a) List Those Attached:

Grant Agreement No. 708

Background information from PRT

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

004216

EXHIBIT

JAN 10 1995

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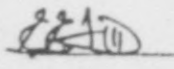
STATE BUDGET & CONTROL BOARD

SC JOBS-ECONOMIC DEVELOPMENT AUTHORITY
1201 MAIN STREET - SUITE 1750
COLUMBIA, SOUTH CAROLINA 29201



MEMORANDUM

TO : Mr. Olney England, Division of Economic Development
Mr. Douglas McKay, Office of Executive Policy and Programs
Mr. Victor Robertson, Department of Commerce
JEDA Staff

FROM : Elliott E. Franks, III 

DATE : August 29, 1994

SUBJECT : DESIGNATION OF ECONOMICALLY DISTRESSED COUNTIES

As a result of an action by the JEDA Board of Directors, Jasper County has been added to the listing of economically distressed areas as published on June 15, 1994.

The listing is now as follows:

Allendale
Bamberg
Barnwell
Chester
Clarendon
Colleton
Darlington
Dillon
Fairfield

Georgetown
Hampton
Jasper
Lee
McCormick
Marion
Marlboro
Williamsburg

If there are questions with regard to this recent action, please contact me.

/fls

004217



Grace G. McKown, Director

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

January 6, 1995

Michael S. Gullledge
Director, Office of Local Government
P.O. Box 11867
Columbia, SC 29211

Dear Mike:

Georgetown County is requesting \$250,000 of Local Government Funds for water and sewer requirements at Huntington Beach State Park. This investment in infrastructure is part of an overall \$38 million tourism project expansion which includes the Brookgreen Garden Complex.

With the current trends and tremendous growth opportunity in tourism, Brookgreen has the opportunity to expand its operations and become a nationally recognized educational/cultural based destination site in South Carolina. At the same time, Brookgreen Foundation, via Huntington Beach State Park, currently offers one of only two points of public access to beaches in Georgetown County. Through a new partnership with the State of South Carolina and Georgetown County, the Brookgreen Foundation proposes to expand its overall complex and significantly improve the public beach access by providing infrastructure to open up the entire north end of the Huntington Beach property.

In addition to expanding the facilities and beach access for all South Carolinians, the overall Brookgreen Complex will result in an economic impact (direct and indirect) which is stated as follows:

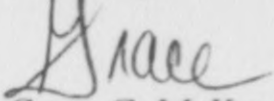
Total Investment Impact (one-time)\$132.26 million (*in construction industry and equipment purchases*)**Employment Impact (recurring)**313 jobs (*for new jobs created and jobs retained*)

004218

Payroll Impact (recurring)\$8,684,000 annually (*for new jobs created and jobs retained*)**General Fund Revenue Impact**\$651,300 annually (*from income and excise taxes*)

The South Carolina Department of Parks, Recreation and Tourism strongly believes the opportunity and the need to more fully utilize these resources for the benefit of the public is at hand. We appreciate your support in this continued effort.

Sincerely,



Grace G. McKown
Director

004219

Brookgreen Project Summary

The Brookgreen Gardens Foundation has historically had as its implicit mission the improvement of the quality of life of South Carolinians and the life of all visitors who have experienced the unique environment of Brookgreen Gardens. This experience has been through the natural works of nature, the unparalleled outdoor sculpture presentations, and public access to one of nature's most beautiful beaches. The Brookgreen complex has been an outstanding attraction, respected by all of its visitors.

With the current trends and tremendous growth opportunity in tourism, Brookgreen has the opportunity to expand its operations and become a nationally recognized educational/cultural based destination site in South Carolina. At the same time, Brookgreen currently offers one of only two points of public access to beaches in Georgetown County. Through a new partnership with the State of South Carolina and Georgetown County, the Brookgreen Foundation proposes to expand its overall complex to include a complex which would build on the unique characteristics of the natural beauty of the area and the existing improvements of Brookgreen and the surrounding area. The opportunity and the need to more fully utilize these resources for the benefit of the public is at hand. The expansion envisioned at the Brookgreen Complex will involve the following:

- * Education/museum facility
- * Construction of a major temperate conservatory
- * Provision of suitable restaurant facilities
- * Construction of a world-class nature center
- * Development of appropriate archeological sites
- * Construction of an amphitheater for regional cultural events
- * Construction of a museum
- * Development of an educational center for cooperative use by the public
- *Huntington Beach State Park
 - * Significantly improve public access to the beaches
 - * Improvement and expansion of camping facilities at the site
 - * Construction of restroom, bathhouse, concession facilities
 - * Significantly improved parking, water, sewer and road infrastructure

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Request for Funding: \$250,000 of Coordinating Council funds for water and sewer requirements. This is part of a \$1 million package, and all other sources have been secured.

CERTIFIED
No. 708STATE OF SOUTH CAROLINA
State Budget and Control Board
DIVISION OF LOCAL GOVERNMENT

GRANT AGREEMENT

EXHIBIT

JAN 10 1995 19

STATE BUDGET & CONTROL BOARD

This grant agreement is entered into this 6th day of January, 1995, between the South Carolina State Budget and Control Board, through the Division of Local Government, an agency of the State of South Carolina (the "State") and Georgetown County Council a _____ of the State of South Carolina (the "Project Sponsor").

WHEREAS, the State is authorized to administer and manager certain State funds to be used for rural improvement, economic development and to improve the quality of life for the citizens of the State of South Carolina; and

WHEREAS, Project Sponsor may undertake projects and receive assistance in the financing of such projects by way of grants made from such State funds and to enter into grant agreements providing for the terms for using such grants and providing for the repayment of amounts received from the funds together with interest thereon in the event of violation of such terms by the Project Sponsor; and

WHEREAS, the Project Sponsor proposes to acquire and/or construct the goods and/or services for the project described in Appendix "A" hereto (the "Project");

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

ARTICLE 1

Section 1.1. Definitions: Except to the extent modified or supplemented by this Agreement, any term used herein shall have the following meaning:

- 1.1.1 Agreement means this Grant Agreement, as described above and any amendments or supplements thereto.
- 1.1.2 Grant Funds means the monies and any loans secured by loan guarantees provided under this Agreement.
- 1.1.3 Project means the construction or manufacturing program or other activities, including the administration thereof, with respect to which Grant Funds are being provided under this Agreement as more particularly described on Appendix "A" attached hereto and made a part hereof.
- 1.1.4 Project Budget means the line-item budget for the use of all grant funds as set forth on Appendix "B" attached hereto and made a part hereof.
- 1.1.5 Project Sponsor means each entity designated as a recipient for grant or loan guarantee assistance in the Grant Award and signing the acceptance provision of the Grant Award.
- 1.1.6 State means the State Budget and Control Board, Division of Local Government ("DLG").

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ARTICLE 2

GRANT CONDITIONS

Section 2.1. Grant made and accepted: In consideration of the mutual promises of this Agreement and upon and subject to its terms and conditions, the State agrees to make, and the Project Sponsor agrees to accept, the Grant herein provided for extension of waste water and water lines to
Huntington Beach State Park.

Section 2.2. Purpose Limited to Project: The Project Sponsor shall use the proceeds of the grant only to pay the actual costs of the project described in the Project Budget. Except to the extent otherwise approved in writing by the State, only the costs shown in the Project Budget shall be allowed and only in the amounts provided for each category.

Section 2.3. Ineligible costs: Funds obligated or expended prior to the grant award or for activities which have not received prior approval from the State shall be considered ineligible costs and shall not be eligible for payment with Grant Funds.

Section 2.4. Budget Changes: Any changes in the grant budget affecting more than ten percent (10%) of any line-item must be approved in writing by the State; provided, however, that no increase for the General Administration line-item shall be allowed without prior approval of the State, regardless of the amount of percentage of increase.

Section 2.5. Grant Award and Letter of Credit: Project Sponsor whose applications for grants are approved by the State, will receive a grant award and letter of credit for the amount of the Project Budget as approved by the Division of Local Government. The Project Sponsor may receive the grant funds following approval of a draw request on the credit established by the Grant Award. Draw requests will be made on forms approved by the State and such requests are subject to approval by the State.

Section 2.6. Disbursements: The State may make and the Project Sponsor shall accept full or partial disbursements from the State only against incurred, actual, eligible costs up to the grant amount as provided in this Agreement. In those cases when the Project Sponsor has paid the incurred project costs and is seeking reimbursement for payment of such costs theretofore paid by the Project Sponsor, any check for disbursement from the fund to pay such costs, at the option of the State, shall be drawn to the Project Sponsor alone or jointly to the Project Sponsor and the vendor supplying the goods and services for the project. Such check will be mailed to the Project Sponsor. Requests for disbursement shall be made on forms of the State, unless the State otherwise directs, and shall be accompanied by such invoices and other proofs as the State may reasonably require.

Section 2.7. Time Limitation and Extension of Time: Grant funds received by the Project Sponsor must be spent as described in Section 2.2 of this Agreement within six (6) months of the date of approval by the State. All unspent grant funds at the end of the above six-month period shall be returned to the State within thirty (30) days of the expiration of the six-month period with interest at the rate of _____ % per annum added thereof. The State may grant an extension of time to the Project Sponsor for spending the grant funds if there are extreme hardship circumstances which prevent the Project Sponsor from complying with the time limitation. The Project Sponsor must, prior to the expiration of the six-month period, request, in writing, an extension of time detailing the hardship circumstances, indicating how the Project Sponsor intends to overcome the hardship and projection of when the funds would be spent. In any case, the extension will not exceed three (3) months. The State, in its sole discretion, may terminate its promise to grant all, or any portion of the Grant Funds which have not been advanced if:

- 2.7.1 the Project Sponsor has not entered into a contract with respect to acquisition of goods and services to begin the Project as described in Project Budget within six (6) months of the date hereof; or
- 2.7.2 a circumstance arises or becomes known which, in the State's sole discretion and opinion, (i) substantially impairs the ability of the Project Sponsor to complete the project, or (ii) substantially impairs the merit of the Project.

Section 2.8. Accounting for Project Transactions: The Project Sponsor must set up a separate bank account for each separate grant agreement and account for all grant fund transactions separately. The bank, the account and a Project Sponsor representative shall be designated by the Project Sponsor before it may request disbursements and such designations shall be subject to approval by the State. The bank account used for the grant funds by the Project Sponsor shall be an interest-bearing account.

Section 2.9. Program Income: The State may require as a condition of any funds distributed by the State under the provisions of this Agreement, that the Project Sponsor pay the State any such income as is earned from the Project during the six-month period following the execution of this Agreement. However, the State shall waive such condition to the extent such income is applied by the Project Sponsor to continue the activity from which such income was derived.

ARTICLE 3

Remedies

Section 3.1. Grant Repaid: If the Project Sponsor violates the terms of this Agreement, or any applicable law or regulations, the State may, by notice in writing to the Project Sponsor, demand the principal portion of the Grant Funds which have been disbursed to the Project Sponsor immediately due and payable to the State, together with interest calculated on it at the rate of _____% per annum. Interest above shall continue to accrue and compound until the date of payment.

Section 3.2. Collection Costs and Fees: In the event of a violation of this Agreement, the State may collect Grant Funds paid plus interest as described in Section 3.1. Costs and fees associated with the collection, including attorney's fees, are also to be collected from the Project Sponsor. The Project Sponsor agrees to pay the State all such costs and fees, including attorney's fees, incurred in collecting the grant funds and interest.

Section 3.3. Additional Remedy: Upon any failure of the Project Sponsor to make any payment to the State in accordance with the provisions of this Agreement, the State, without further action, may request and, the Project Sponsor by acceptance of the grant herein, hereby specifically authorizes the State Treasurer and Comptroller General of the State to pay the State the amount of state aid to which the Project Sponsor may become entitled to until all delinquent payments described in Sections 3.1 and 3.2 have been paid.

ARTICLE 4

General

Section 4.1. Reporting Requirements: The Project Sponsor agrees to complete and submit all reports, in such form and according to such schedule, as may be required by the State.

Section 4.2. Audit: The Project Sponsor agrees to have conducted an independent audit of grant funds and submit all audit findings to the Board upon completion of project.

Section 4.3. Maintenance of Records: Records and accounts for Grant Fund transactions must be maintained using generally-accepted accounting principals. Detailed records and source documents must be maintained in a neat, easily accessible manner. Records for all grant funds must be retained for five (5) years after receipt of the final disbursement by the Project Sponsor. However, if any litigation, claim, or audit is started before the expiration of the five-year period, then records must be retained for five (5) years after the litigation, claim, or audit is resolved.

Section 4.4. Access: All records with respect to all matters covered by this Agreement shall be made available for random audit and inspection by the State.

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Section 4.5. Ownership: Title to property acquired in whole or in part with grant funds shall be vested in the Project Sponsor, subject to divestment by State, where its use for project or other approved activities is discontinued. Project Sponsor should exercise caution in the use, maintenance, protection, and preservation of such property during the period of project use. The Project Sponsor must file with the State a property inventory statement (in a form acceptable to the State) within thirty (30) days of receipt of the final disbursement by the Project Sponsor and must agree to be subject to audit by State or its duly authorized representatives for verification of the information contained in the property inventory form.

Section 4.6. Applicable Law: This Agreement is made under and shall be construed in accordance with the laws of the State of South Carolina. By accepting this grant, the Project Sponsor also agrees to submit to the jurisdiction of the courts of the State of South Carolina for all matters arising or to arise hereunder, including but not limited to, performance of said grant and the payment of licenses and taxes of whatever kind of nature applicable hereto.

Section 4.7. Amendments: Any changes to this grant award affecting the scope of work of the project must be approved, in writing, by the State and shall be incorporated in written amendment(s) to this Agreement.

IN WITNESS WHEREOF, The Project Sponsor and the State have caused these presents to be signed, sealed and delivered all as of the date hereon.

(SEAL)

(Project Sponsor)

By

Gordon W. Hartwig

Its County Administrator

Attest:

s/James W. Nichols

James W. Nichols
Its Chairman of Georgetown County Council

South Carolina State Budget and Control Board

By

In accordance with Proviso 14.91 of the 1990-1991 State Appropriations Act, I hereby attest to have reviewed this Grant Agreement for the herein named project.

(Senator)

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(House Member)

No. 708

EXHIBIT

APPENDIX "A"

JAN 10 1905

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PROJECT SPONSOR: Georgetown County Council

STATE BUDGET & CONTROL BOARD

GRANT NUMBER: _____

SCOPE OF WORK

	Description	Budget	Grant Funds Requested
1.	Sewer extension	\$442,407	\$250,000
2.	Water	291,876	-0-
3.	Roads and Drainage	424,347	-0-
4.			
5.	PROJECT TOTAL	1,158,630	250,000
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			

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EXHIBIT**APPENDIX "B"**

JAN 10 1995

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STATE BUDGET & CONTROL BOARD

The Project shall consist of the following:

Implementation of Master Plan to improve Huntington Beach
State Park to include roads, drainage, water and sewer at a
total cost of \$1,158,630. The grant application is for water and
sewer line extensions.

Source of Funding of Project:

Federal Funds	
Coordinating Council	250,000
State Funds PRT - Permanent Improvement ACT	500,000
Local Funds	158,630
Other Funds	
Budget and Control Board Funds	250,000
Total Project Funds	\$1,158,630

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