

574

FINANCING AGREEMENT AND AGREEMENT OF SALE among THE INDUSTRIAL DEVELOPMENT BOARD OF THE TOWN OF HELENA, ALABAMA, a public corporation and instrumentality under the laws of Alabama (herein called "the Board"), DUNN CONSTRUCTION COMPANY, INC., a corporation under the laws of the State of Delaware (herein called "the Company"), and FIRST ALABAMA BANK OF BIRMINGHAM, a banking association under the laws of the State of Alabama, having its principal place of business in the City of Birmingham, Alabama (herein called "the Bank"),

R E C I T A L S:

19800521000055560 1/16 \$ .00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT

In order to promote local industrial and commercial development, the Board has acquired an easement in the real property specifically described in Exhibit A to this Agreement (herein called "the Project Site") which is located wholly within the corporate limits of the Town of Helena, Alabama (herein called "the Town"), and has agreed to construct thereon, in accordance with plans and specifications to be furnished by the Company, an air and water pollution control facility (herein called "the Facility"), to be sold to the Company for use in connection with the Company's manufacturing and processing operations in the Town. The Board has heretofore adopted a resolution (a) finding and declaring that the acquisition of the Project Site and the construction of the Facility (the Project Site and the Facility being herein together called "the Project") will promote industry, develop trade and further the use of the natural resources of the State of Alabama, and (b) authorizing the acquisition, construction and installation of the Project.

The Company, on its part, has requested that the Board so acquire and construct the Facility and the Board is willing to agree so to do, provided that it can arrange the financing of the cost thereof in a manner satisfactory to it. The Board has indicated its willingness to issue revenue bonds (herein called "the Bonds") for the purpose of providing moneys for payment of such cost, and the Company has requested that the Board promptly commence the acquisition, construction and installation of the Project.

To provide such financing, the Board proposes to borrow the sum of \$140,000 and to issue, in evidence of such borrowing, \$140,000 principal amount of its Industrial Revenue Bonds (herein called "the Bonds"), to be dated the date of their issuance, to bear interest, payable semiannually on each May 1 and November 1 until maturity, at the rate of 7.75% per annum, and to mature on May 1 in each of the years 1981 through 1985, with the Board having the privilege of prepaying all or any part thereof at any time, without any prior notice or any penalty or premium, provided that prior to or simultaneously with each such prepayment, the Board pays the

This instrument prepared by:

JOHN G. HARRELL

1500 Brown-Marx Building

Birmingham, AL 35203

Brad, Mant, Rose & White

36 PAGE 119

BOOK

Executed in 4 counterparts of which this is counterpart # 1



interest accrued on each such Bond or portion thereof so prepaid. The Bonds shall be issued pursuant to the resolution adopted by the Board of Directors of the Board at the meeting at which the execution and delivery of this Agreement by the Board was authorized. The Bonds shall be payable solely out of the revenues derived by the Board from the sale of the Project.

The Bank has indicated its willingness to lend the said sum of \$140,000 to the Board and to accept the Bonds in evidence of such borrowing, provided that the Company will agree to purchase the Project from the Board, on the terms and conditions hereinafter set out. The Company, recognizing

(a) that the Board will not have revenues available for payment of the Bonds other than those derived from the sale of the Project,

(b) that, without the agreement of the Company to such an arrangement and its execution hereof, the Board would not be willing to agree to acquire the Project Site and to acquire and construct the Facility thereon, nor would the Bank be willing to lend to the Board the moneys needed to pay the cost thereof, and

(c) that the acquisition of the Project Site and the acquisition and construction of the Facility thereon, and the subsequent sale thereof to the Company, will be of substantial benefit to the Company, will further the purposes for which it was organized and will enable the Company to meet applicable federal and state air and water pollution control standards,

has entered into this Agreement with the Board and the Bank (i) to induce the Board to agree to acquire and construct the Facility on the Project Site, and to issue the Bonds, (ii) to induce the Bank to agree to purchase the Bonds, and (iii) to evidence its agreement so to purchase the Project from the Board under the terms and conditions hereinafter set out.

NOW, THEREFORE, in consideration of the respective agreements on the part of the Board, the Company and the Bank herein contained, the Board, the Company and the Bank do hereby agree as follows:

Section 1. Issuance and Sale of Bonds. Acquisition, Construction and Installation of Project. As promptly as practicable following the execution and delivery hereof, the Board (a) will issue and sell to the Bank the Bonds at and for a purchase price equal to \$140,000, and (b) will accept a deed to the Project Site. The Board will, in addition, proceed continuously and with all reasonable dispatch (but only to the extent that the available proceeds from the sale of the Bonds or moneys provided by the Company in accordance with the





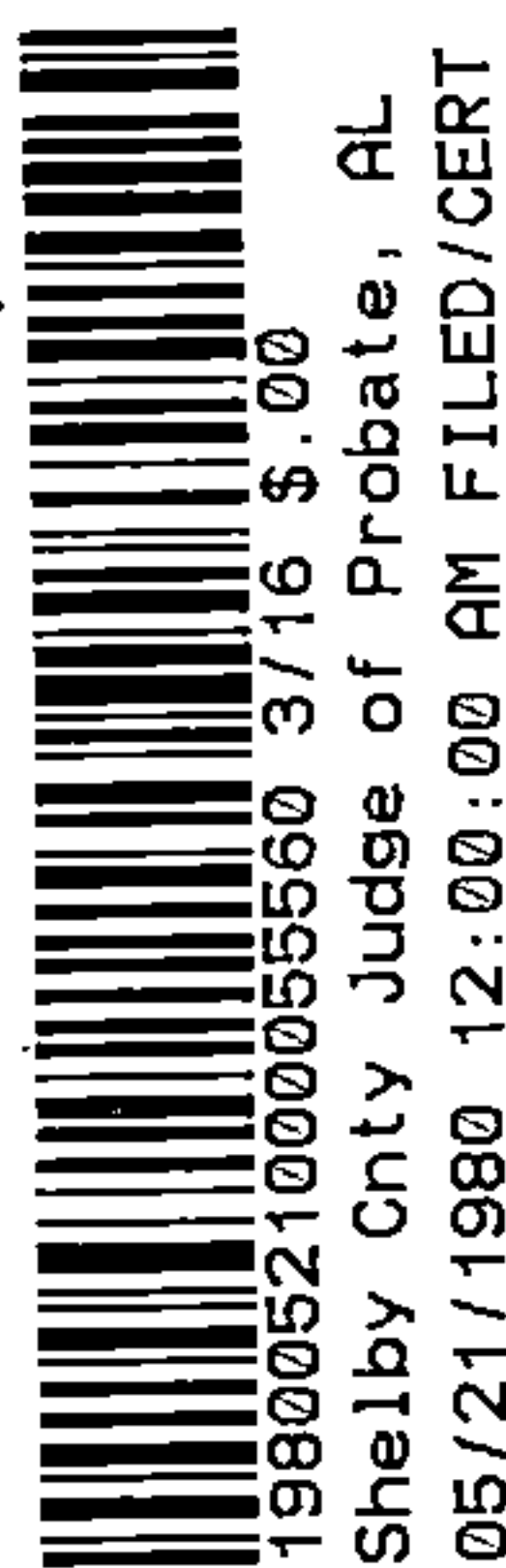
provisions of Section 2 hereof, are sufficient to pay the cost thereof) with the acquisition and construction, wholly within the boundary lines of the Project Site, of the Facility, strictly in accordance with plans and specifications therefore approved by the Company; provided, however, that the Board will not enter into any contract or purchase order for such construction or any part thereof or for the acquisition of any materials or supplies to be used in connection therewith unless such contract or purchase order is first approved in writing by the said Authorized Company Representative. The Board will complete said acquisition, construction and installation as promptly as practicable, delays incident to strikes, riots, acts of God and the public enemy, and other similar acts beyond the reasonable control of the Board only excepted.

Section 2. Conditions to the Obligation of the Bank to Purchase the Bonds. The Board will borrow from the Bank and the Bank will lend to the Board, on the terms and conditions specified in this Agreement, the sum of \$140,000 to provide for payment of the cost of the acquisition, construction and installation herein required to be undertaken by the Board; provided, however, that no moneys shall be borrowed hereunder by the Board except in accordance with written directions signed on behalf of the Company by the Authorized Company Representative hereinafter referred to. If, after the Board has borrowed \$140,000 from the Bank pursuant to the provisions hereof, additional funds are necessary to provide for full payment of all the costs of said acquisition, construction and installation, such additional funds will be provided by the Company.

Prior to or at the time of the delivery of the Bonds, the Board will furnish to the Bank, or will cause to be so furnished the following, each of which must be in form and of content satisfactory to the Bank and its counsel:

(a) a certified copy of a resolution adopted by the Board of Directors of the Board authorizing (i) the execution and delivery of this Agreement on the part of the Board, and (ii) the issuance and sale of the Bonds in evidence of the loan from the Bank to the Board,

(b) an opinion or opinions of Messrs. Bradley, Arant, Rose & White, counsel to the Company, addressed to the Board and the Bank, and stating in substance (i) that the Company is duly organized under the laws of the State of Delaware, (ii) that the execution and delivery of this Agreement on the part of the Company has been duly authorized, and (iii) that this Agreement has been duly executed on the part of the Company and is valid, binding and enforceable against the Company in accordance with its terms except as the enforcement thereof may be limited by applicable bankruptcy, insolvency, reorganization, morato-





rium, or similar laws affecting creditors' rights generally;

(c) an opinion of Messrs. Bradley, Arant, Rose & White, of Birmingham, Alabama (who are acting as bond counsel) addressed to the Board and the Bank and approving the validity of the Bonds, and stating in substance (i) that the interest income on the Bonds is, under then existing statutes and regulations, as then construed, exempt from Federal income taxation, except with respect to any such bond for any period during which it is held by a person who is a substantial user of the Project or a "related person" as that term is defined in Section 103(b)(6)(C) of the Internal Revenue Code of 1954, as amended (herein called "the Code"), and (ii) that this Agreement has been duly authorized, executed and delivered by the Board and is valid, binding and enforceable against the Board in accordance with its terms except as the enforcement of either thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally; and

(d) executed copies of incumbency, no-litigation, non-arbitrage and other closing and delivery certificates of the Board.

Section 3. Construction Fund. There is hereby created a special trust fund, the full name of which shall be "Project Construction Fund" (herein called "the Construction Fund"), for the purpose of providing for payment of the costs of acquiring and constructing the Facility and the costs and expenses incurred in connection therewith and in connection with the issuance of the Bonds. The Bank shall be and remain the custodian, depository and disbursing agent (herein referred to in such capacity as "the Depository") for the Construction Fund and will pay out moneys on deposit therein for said purposes, but only upon receipt of

(a) a requisition or payment request signed by the Chairman or Vice Chairman of the Board of Directors of the Board, the Secretary or the Treasurer of the Board, or any other person or persons designated for such purpose by the said Chairman, and stating, with respect to each such payment, the amount requested to be paid, the name and address of the person, firm or corporation to whom such payment is due and the purpose for which such payment is requested;

(b) an endorsement on such requisition or payment request signed by the Authorized Company Representative hereinafter referred to approving the payment thereby requested to be made; and





(c) in the event of a request for payment of any part of the cost of labor, services or materials in connection with the construction of the Facility (whether bills or contractors' estimates), a certificate of an Authorized Company Representative certifying that materials were actually used in or about the construction of the Facility and are located on, or are referable to, the Project Site.

The moneys at any time on deposit in the Construction Fund shall be and at all times remain public funds impressed with a trust for the purposes specified in this Section 3. The Depository shall at all times keep the moneys on deposit in the Construction Fund continuously secured, for the benefit of the Board and the holders of the Bonds, in such manner as may be required or permitted by applicable state and Federal laws and regulations respecting the security for, or granting a preference in the case of, the deposit of public or trust funds; provided however, that it shall not be necessary for the Depository so to secure any portion of the moneys on deposit in the Construction Fund that is insured by the Federal Deposit Insurance Corporation or other agency of the United States of America that may succeed to its functions, or that is invested in the obligations that are described in the next succeeding paragraph of this Section 3.

As promptly as practicable following the issuance and sale of the Bonds and from time to time thereafter, the Company will cause the Authorized Company Representative to furnish to the Depository a certificate stating what portions (if any) of the moneys on deposit in the Construction Fund will not be needed during the then ensuing thirty (30) days for payment of any of the costs for the payment of which the Construction Fund was created and stating further the approximate dates that such presently unneeded moneys will be needed for such purposes. Promptly after receipt of each such certificate, the Depository will, to the extent practicable,



19800521000055560 5/16 \$ .00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT

(i) cause the Construction Fund moneys certified in said certificate as not to be needed during the then ensuing thirty (30) days for said purposes, to be invested in (A) certificates of deposit issued by the Depository or by any bank organized under the laws of the United States of America or any state thereof having, at the time of the acquisition by the Board of such certificates of deposit, combined capital and surplus of not less than \$1,000,000, or (B) any securities that are direct obligations of the United States of America, or (C) any securities the payment of the principal of and the interest on which is unconditionally guaranteed by the United States of America, provided that any such investments shall have stated maturities in such amounts and at such times, prior to or corresponding with the dates and amounts specified in said certificate, as to make available from the Construction Fund cash moneys sufficient



to meet the needs of the Construction Fund as specified in said certificate, and

(ii) in making such investments follow such instructions as may be given to it by the Authorized Company Representative.

In the event of any such investment, the securities and certificates in which such moneys are so invested, together with all income derived therefrom, shall become a part of the Construction Fund to the same extent as if they were moneys originally deposited therein. The Depository may from time to time sell or otherwise convert any such securities or certificates into cash if in its sole discretion it deems such sale or conversion is necessary or desirable or if such sale or conversion is necessary to provide for payment of any requisition presented to it pursuant to the provisions of this section, whereupon the net proceeds from such sale or conversion shall become a part of the Construction Fund. The Depository shall be fully protected in making any such investment, sale or conversion in accordance with the provisions of this section. In any determination of the amount of moneys at any time forming a part of the Construction Fund, all such securities and all such certificates in which any portion of the Construction Fund is at the time so invested shall be included therein at their then market value.

The Board will pay, out of moneys on deposit in the Construction Fund, all costs and expenses incurred by it in connection with this Agreement and in the making of the loans herein provided for, including, without limitation, (a) the fees and charges of the aforesaid Bond Counsel, Messrs. Bradley, Arant, Rose & White, for their services relating to the preparation and authorization of this Agreement and to the issuance of the Temporary Bonds, (b) the fees and charges of the Depository for its services in acting as depository, custodian and disbursing agent for the Construction Fund, and (c) any other fees incurred by the Board in connection with the issuance of the Bonds.

The Company will not issue, or permit to be issued on its behalf, any instructions for the investment of any moneys in the Construction Fund if, as a result of any such investment being made in accordance therewith, the Bonds would be considered "arbitrage bonds" within the meaning of Section 103 of the Code. Further, the Company will not approve, or permit to be approved on its behalf, any payment out of moneys in the Construction Fund if, as a result of such payment, less than substantially all of the proceeds of the Bonds would be considered as having been used for the acquisition, construction, reconstruction or improvement of land or property of a character subject to the allowance for depreciation within the meaning of Section 103(b)(6) of the Code.

19800521000055560 6/16 \$.00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT



The Project shall be deemed to have been completed when there shall have been filed with the Board a certificate signed by the Authorized Company Representative stating that (except for amounts retained by the Depository at the direction of the Company for payment of Construction Costs not then due and payable) (i) the construction and equipping of the Project has been substantially completed in accordance with the plans and specifications supplied by the Company and all charges for labor, services, materials and supplies referable to the Project have been paid, (ii) the construction, acquisition and installation of all other facilities necessary in connection with the Project have been substantially completed in accordance with the said plans and specifications, and (iii) the Project is suitable for operation for air and water pollution control purposes. Such certificate may, however, state that it is given without prejudice to the rights of third parties which exist on the date of such certificate or which may subsequently come into being.

Section 4. Sale of the Project and Payment Therefor. On or before the date specified in the next succeeding paragraph, the Board will sell and convey the Project to the Company, and the Company will purchase the Project from the Board, said conveyance to be subject only to (a) those liens, encumbrances and exceptions to which title thereto was subject when this Agreement was delivered, and (b) those liens and encumbrances resulting from the failure of the Company to perform any of the agreements or covenants on its part herein contained.

Not later than the earlier of

(a) thirty days after the Completion Date, or

(b) May 1, 1985,

19800521000055560 7/16 \$.00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT

(which date is herein referred to as "the Delivery Date"), the Board shall execute and deliver to the Company a statutory warranty deed, bill of sale, assignment or other appropriate conveyance, conveying the Project (or such portion of the Project as may then be in existence, which may be none), and assigning any right, title or interests of the Board in and to the Project (other than its right, title and interest in this Agreement) whether contingent or vested, which the Board may have resulting from its ownership of the Project.

Commencing with the date on which this Agreement shall be delivered and continuing until and including the Delivery Date, the Company shall have sole and exclusive possession of the Project; provided however, that the Board will be permitted such possession of the Project as shall be necessary and convenient for it to construct, install and equip the Project.



Section 5. Payment of Purchase Price of Project. For and during the term of this Agreement, the Company shall pay directly to the Bank, for the account of the Board, to be held by the Bank in a special fund (herein called "the Bond Fund"), to be applied by the Bank for payment of the Bonds, as the purchase price of the Project, the following:

(a) On November 1, 1980, and on each May 1 and November 1 thereafter, until and including May 1, 1985, an amount, which, when added to the amount then on deposit in the Bond Fund (exclusive of any amount held therein for payment of matured but unpaid principal and interest on the Bonds) will equal the interest maturing with respect to the then outstanding Bonds on the then next succeeding interest payment date with respect thereto;

(b) On May 1, 1981, and on each May 1 thereafter, until and including May 1, 1985, an amount which, when added to the amount then on deposit in the Bond Fund (exclusive of any amount held therein for payment of matured but unpaid principal and interest on the Bonds) will equal the principal maturing with respect to the Bonds on the then next succeeding principal payment date.

In the event the due date of any payment hereunder is a Sunday or a legal holiday in Alabama, such payment shall be due on the next preceding business day. Nothing contained herein shall be construed as imposing on the Board or on the Bank any duty or responsibility of giving any notice to the Company of the amount on deposit in the Bond Fund as of any payment date hereunder.

The Board hereby directs that all such payments shall be made directly to the Bank, or its successor under this Agreement, for the account of the Board for deposit in the Bond Fund. Any payment due hereunder that is not paid on the due date thereof shall bear interest from such due date until paid at the rate of 8% per annum. The Company will also pay the reasonable fees, charges and disbursements of the Bank, such fees, charges and disbursements to be paid directly to the Bank for its own account upon presentation of its statements therefor.

The obligations of the Company contained in this Section 5 shall be absolute and unconditional, irrespective of any rights of set-off, recoupment or counterclaim it might otherwise have against the Board, and the Company will not fail to perform any of the agreements on its part contained in such sentence for any cause, including, without limiting the generality of the foregoing, any failure of the Board to comply with any of the agreements on its part contained in this Agreement.

19800521000055560 8/16 \$.00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT



Section 6. Representations and Agreements Concerning Federal Income Tax Exemption For Interest on Bonds. (a) The Company hereby warrants, represents and agrees as follows:

(i) that no state, territory or possession of the United States, nor any political subdivision of any such state, territory or possession, nor the District of Columbia, has, since April 30, 1968, issued any obligations, the proceeds of which are to be or have been used primarily with respect to any facilities (A) that are located within the corporate limits of the Town of Helena, Alabama, and (B) the principal user of which facilities was, is, or will be, the Company or a related person (as the term "related person" is defined in Section 103(b)(6)(C) of the Code); and

(ii) that substantially all the proceeds from the borrowings evidenced by the Bonds will be applied for the acquisition, construction, reconstruction or improvement of land or property of a character subject to the allowance for depreciation.

Section 7. Events of Default. The following shall be "Events of Default" under this Agreement, and the terms "Event of Default" or "Default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure by the Company to pay the purchase price provided under Section 5 hereof, when such amount is due and payable;

(b) Failure by the Company to perform or observe any of its other agreements or covenants contained in this Agreement, which failure shall have continued for a period of thirty (30) days after receipt of written notice specifying, in reasonable detail, the nature of such failure and requiring the Company to perform or observe the Agreement or covenant with respect to which it is delinquent given to the Company by the Bank or the Board, unless (i) the Board and the Bank shall agree in writing to an extension of such period prior to its expiration, or (ii) during such thirty (30) day period or any extension thereof, the Company has commenced and is diligently pursuing appropriate corrective action, or (iii) the Company is by reason of force majeure at the time prevented from performing or observing the Agreement or covenant with respect to which it is delinquent; or

(c) any warranty, representation or other statement by or on behalf of the Company



19800521000055560 9/16 \$ .00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT



contained in this Agreement is false, untrue or misleading in any material respect and the same shall not be made good or remedied within thirty (30) days after notice thereof to the Company by the Bank or the Board.

As used in this Section 7, the term force majeure means acts of God or the public enemy, strikes, labor disputes, lockouts, work slow-downs or stoppages or other industrial disturbances, insurrections, riots or other civil disturbances, order of the United States of America, the State of Alabama or any department, agency or political subdivision of either thereof, or of other civil or military authority, or partial or entire failure of public utilities.

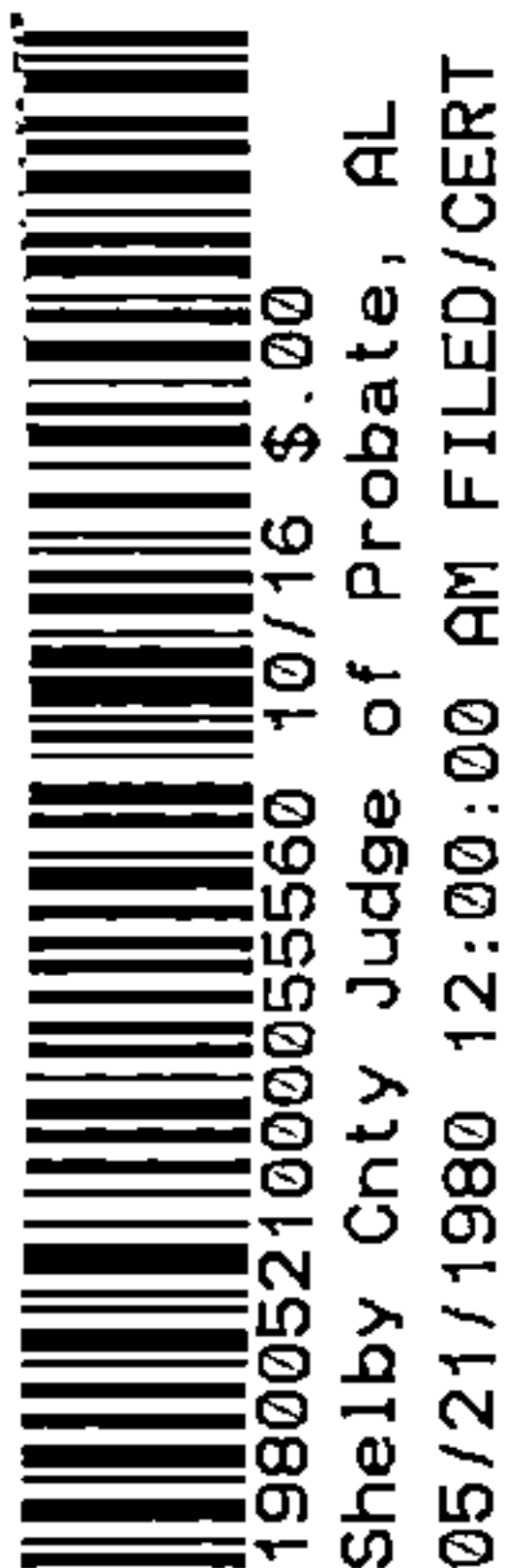
Section 8. Remedies. Whenever any such Event of Default shall have happened and be continuing, the Board and the Bank (or the Bank on behalf of the Board) may take any one or more of the following remedial steps:

(a) they or it may by written notice to the Company declare immediately due and payable all amounts thereafter coming due hereunder whereupon the same shall become immediately due and payable; and

(b) they or it may take whatever other action at law or in equity may appear necessary or desirable to collect the rent then due, or to enforce any obligation, covenant or agreement of the Company under this Agreement.

Section 9. Limited Liability of Board. Anything herein or in the Bonds to the contrary notwithstanding, it is hereby expressly agreed that any liability and obligation of the Board hereunder shall be limited solely to (a) the proceeds derived by the Board from the sale of the Bonds, and (b) the revenues and receipts derived by the Board from the sale of the Project. Nothing contained herein or in the Bonds shall ever be construed to constitute a personal or pecuniary liability or charge against the general credit of the Board, and in the event of breach of any agreement or covenant on the part of the Board contained herein or in the Bonds, no personal or pecuniary liability or charge payable directly or indirectly from the general revenues of the Board shall arise therefrom.

Section 10. Representations of Bank Concerning Purchase of Bonds. The Bank represents to the Board and the Company that it has received such financial, corporate and general information respecting the Company and such material respecting the Board and the Bonds as it deems necessary to enable it to make an informed investment judgment with respect to the purchase of the Bonds, and that it is purchasing the Bonds for its own account for the purpose of investment and not for resale and it has no present intention of reselling or otherwise redistributing the Bonds. The Bank agrees that it will not





resell any of the Bonds except in a bona fide private placement to a bank, trust company, insurance company, pension fund or similar financial institution.

Section 11. Covenant of Company to Maintain Existence. The Company agrees that so long as this Agreement remains in effect, it will not permit any action to be taken to dissolve or otherwise terminate the existence of the Company as a corporation under the laws of the State of Delaware without the written consent of the Bank; provided, that the Company may, at its option, without the consent of the Bank or the holders of any of the Bonds take any and all steps necessary to change its corporate domicile from the State of Delaware to any other state of the United States of America.

Section 12. Taxes, Other Governmental Charges and Utility Charges. The Board and the Company acknowledge (a) that under present law no part of the Project owned by the Board will be subject to ad valorem taxation by the State of Alabama or by any political or taxing subdivision thereof and that under present law no part of the receipts, income or profits (if any) of the Board from the Project are subject to either Federal or Alabama taxation, and (b) that these factors, among others, induced the Company to enter into this Agreement. However, the Company will pay, as the same respectively become due, (i) all taxes and governmental charges of any kind whatsoever that may lawfully be assessed or levied against or with respect to the Project or any machinery, equipment or other property installed or brought by the Company therein or thereon (including, without limiting the generality of the foregoing, any taxes levied with respect to any part of the receipts, income or profits of the Board from the Project and any other taxes levied upon or with respect to the Project which, if not paid, would become a lien on the Project, (ii) all utility and other similar charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project, and (iii) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Project; provided that with respect to special assessments or governmental charges that may lawfully be paid in installments over a period of years, the Company shall be obligated to pay only such installments as are required to be paid during the term of this Agreement.

The Company may, at its own expense and in its own name and behalf or in the name and behalf of the Board, in good faith contest any such taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless by such action the title of the Board to any part of the Project shall be materially endangered or if the Project or any part thereof shall become subject to loss or forfeiture, in which event such taxes, assessments or charges shall be paid prior to their becoming delinquent. The Board will cooperate fully with the Company in any such contest.



19800521000055560 11/16 \$.00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT





19800521000055560 12/16 \$.00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT

Section 13. Concerning the Investment Tax Credit. The Board will execute such documents as the Company may reasonably request in order to make available to the Company any investment tax credit provided for in the Code.

Section 14. Notices. All notices hereunder shall be deemed sufficient and properly given if in writing and sent by United States registered or certified mail, postage prepaid, addressed, if to the Board, at c/o Town Hall, Helena, Alabama 35080; if to the Company, at P. O. Drawer 247, Birmingham, Alabama 35201; if to the Bank or the Depository, P. O. Box 10247, Birmingham, Alabama 35202, Attn: Corporate Trust Department. The Board, the Company, the Bank and the Depository may, by like notice, designate any further or different addresses to which subsequent notices shall be sent.

Section 15. Severability. In the event any provision of this agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 16. Agreement Governed by Alabama Law. It is the intention of the parties hereto that this Agreement shall in all respects be governed by the laws of the State of Alabama.

Section 17. Third-Party Beneficiaries. The Bank and any future holder of any of the Bonds shall be third-party beneficiaries of the covenants and agreements on the part of the Company herein contained and shall be entitled to enforce observance and performance of such covenants and agreements on the part of the Company herein contained as fully and completely as the Board.

Section 18. Assignment Binding Upon Successors and Assigns. May Be Assigned. This Agreement shall be binding upon and shall inure to the benefit of, the Board, the Company, the Bank and their respective successors and assigns. This Agreement may also be assigned by the Company without the consent of the Board or the Bank, provided that no such assignment shall in any way relieve the Company from primary liability for any of its obligations hereunder.

Section 19. Term of Agreement. This Agreement shall remain in full force and effect from the date hereof until and including May 1, 1985, or until such time as the Bonds shall have been paid in full, whichever is earlier.

Section 20. Section Captions. The section headings and captions contained herein are included for convenience only and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.



IN WITNESS WHEREOF, the Board, the Company and the Bank have caused this Agreement to be executed in their respective names, in four counterparts, each of which will be deemed an original, have caused their respective seals to be hereunto affixed, have caused this Agreement to be attested, all by their duly authorized officers, and have caused this Agreement to be dated as of May 1, 1980, although actually executed by the Board on May 7, 1980, 1980, by the Company on May 9, 1980, 1980, and by the Bank on May 19, 1980, 1980.

THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE TOWN OF HELENA, ALABAMA,

By Joel Bearden  
Chairman of the Board of Directors

Attest:

SEAL

James V. Sider  
Its Secretary



19800521000055560 13/16 \$.00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT

DUNN CONSTRUCTION COMPANY, INC.

By [Signature]  
Its President

Witness:

Lee L. Burnett  
Ass't Secretary

FIRST ALABAMA BANK OF BIRMINGHAM

By Roy D. Bredwell  
Its CORPORATE TRUST MANAGER

Attest:

SEAL

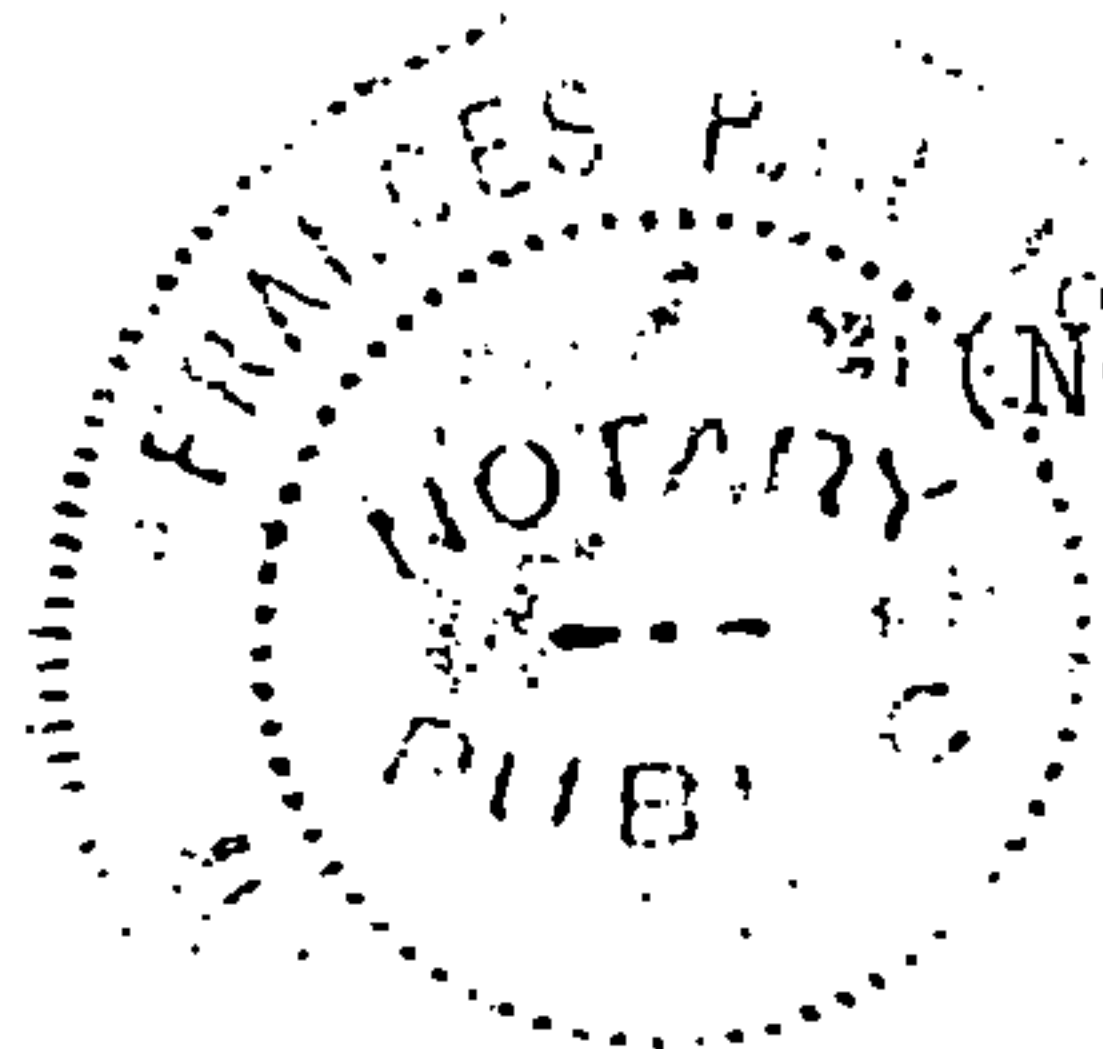
[Signature]  
Its Trust Officer



STATE OF Alabama,  
COUNTY OF Shelby;

I, Frances Parrish, a Notary Public in and for said county in said state, hereby certify that Paul Bearden, whose name as Chairman of the Board of Directors of THE INDUSTRIAL DEVELOPMENT BOARD OF THE TOWN OF HELENA, ALABAMA, a public corporation and instrumentality under the laws of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

GIVEN under my hand and official seal of office this 7 day of May, 1980.



(NOTARIAL SEAL)

Frances Parrish  
Notary Public  
My Commission Expires May 17, 1989

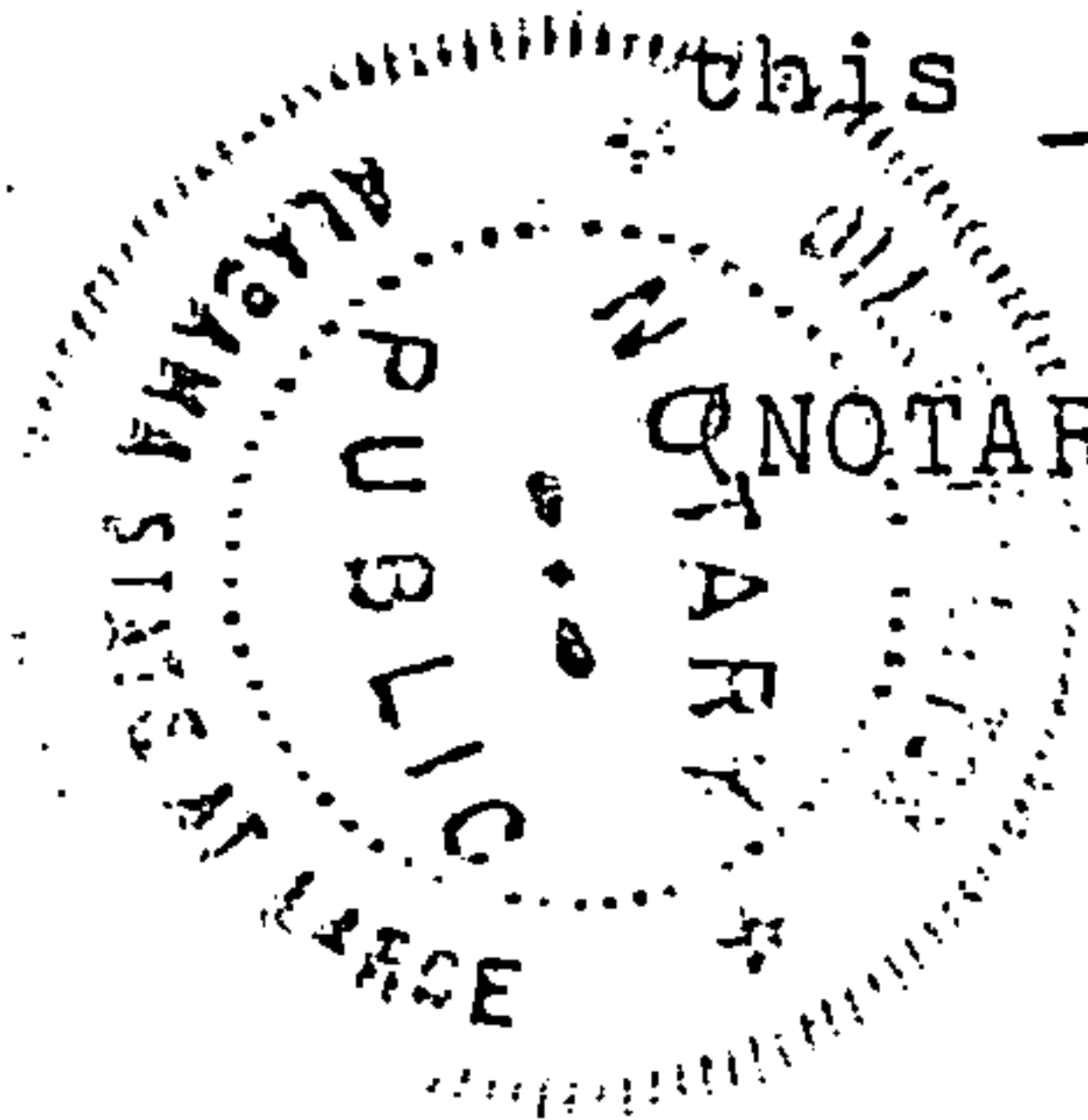


19800521000055560 14/16 \$.00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT

STATE OF Alabama,  
COUNTY OF Jefferson;

I, Heane Praytor, a Notary Public in and for said county in said state, hereby certify that J. L. M. French, whose name as general partner of DUNN CONSTRUCTION COMPANY, INC., a corporation organized under the laws of the State of Delaware, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN under my hand and official seal of office this 9th day of May, 1980.



(NOTARIAL SEAL)

Heane Praytor  
Notary Public

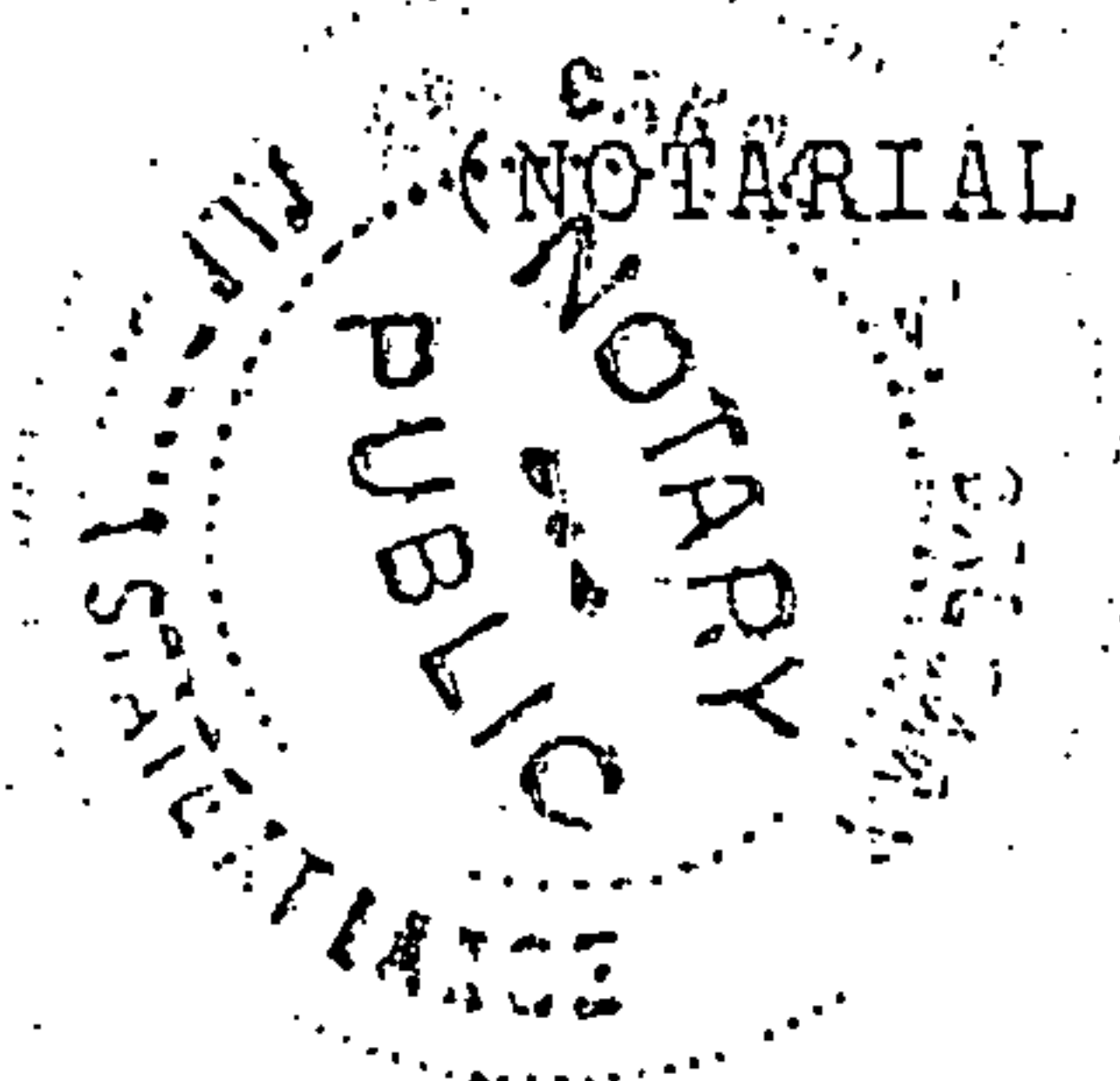


STATE OF )  
COUNTY OF )

I, Carole Z. Dalader, a Notary Public in and for said county in said state, hereby certify that ROY D. BIRDWELL, whose name as CORPORATE TRUST MANAGER of FIRST ALABAMA BANK OF BIRMINGHAM, a banking association under the laws of the State of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said association.

GIVEN under my hand and official seal of office this 19th day of May, 1980.

(NOTARIAL SEAL)



Carole Z. Dalader  
Notary Public

MY COMMISSION EXPIRES MAY 13, 1982

19800521000055560 15/16 \$.00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT



Exhibit A

To that Certain Financing Agreement  
and Agreement of Sale among  
The Industrial Development Board  
of the Town of Helena, Alabama,  
Dunn Construction Company, Inc.,  
and First Alabama Bank of Birmingham,  
dated as of May 1, 1980

A non-exclusive easement, license and right  
to use the following described property located in  
Shelby County, Alabama:

Commencing at the Southwest corner of  
Section 11, Township 20-South, Range 3-West.  
Thence N-24°-41'-E, 801.8 feet, and thus the  
point of beginning. Thence N-24°-41'-E, 668.1  
feet; thence S-89°-45'-W, 400.0 feet to a point  
on the South right-of-way of Shelby County Road  
No. 17; thence along the South right-of-way of  
said county road, 118.0 feet; thence  
S-14°-00'-E, 192.1 feet; thence S-14°-00'-W,  
388.1 feet; thence East 282.0 feet and thus the  
point of beginning. Said parcel containing 5.5  
acres (more or less). Also lying in the South-  
west 1/4 of Section 11, Township 20-South;  
Range 3-West, and being in Shelby County, Ala-  
bama.

19800521000055560 16/16 \$.00  
Shelby Cnty Judge of Probate, AL  
05/21/1980 12:00:00 AM FILED/CERT

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED  
1980 MAY 21 AM 9:32

*Thomas P. Shaver, Jr.*  
JUDGE OF PROBATE

Rec. 24.00  
Ind. 1.00  
25.00