

APR 24 1989

RESOLUTION NO. 89- B-02

RESOLUTION APPROVING THE ISSUANCE OF \$575,000
ORANGE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY
INDUSTRIAL DEVELOPMENT REVENUE REFUNDING BONDS
(NOLAND COMPANY PROJECT)
SERIES 1989

WHEREAS, the Board of County Commissioners of Orange County declared a need for the Orange County Industrial Development Authority ("Authority"), appointed its members and empowered it to act under the provisions of Chapter 159, Parts II and III of the Florida Statutes; and

WHEREAS, Authority at a public meeting held on April 18, 1989 adopted the resolution attached hereto as Exhibit "A" (the "Resolution") providing for the issuance of an aggregate principal amount of \$575,000 Orange County Industrial Development Authority Industrial Development Revenue Refunding Bonds (Noland Company Project), Series 1989 (the "Bonds"), the proceeds of which will be used to refund the Authority's outstanding Industrial Development Revenue Bonds (Noland Company Project), Series 1984 (the "Series 1984 Bonds"), the proceeds of which were used to finance the cost of construction and equipping an approximately 10,000 sq. ft. warehouse and related office facilities to be located on approximately 1.5 acres of land at 1120 South Hughey Street in Orlando, Orange County (the "Project"); and

WHEREAS, the owner of the Project is the Noland Company and the Project is presently and will continue to be managed by the Noland Company; and

WHEREAS, the Board of County Commissioners of Orange County has jurisdiction over Orange County, Florida; and

WHEREAS, the Board of County Commissioners of Orange County has been furnished with a copy of the minutes of the public meeting of the Authority held on April 18, 1989 with respect to the Authority's approval of the Resolution; and

WHEREAS, the Board of County Commissioners has been requested by Authority to consider and approve Authority's issuance of the Bonds in compliance with the provisions of Section 125.01(1)(z) of the Florida Statutes, as amended.

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

1. Issuance by the Authority of not to exceed \$575,000 of Orange County Industrial Development Authority Industrial

Development Revenue Refunding Bonds (Noland Company Project), Series 1989, as contemplated by the Resolution is hereby approved.


2. This approval is intended to comply with the provisions of Section 125.01(1)(z) of the Florida Statutes, as amended.

3. Nothing contained in this approval shall be deemed to create any obligation of Orange County, Florida or the Board of County Commissioners of Orange County.

ADOPTED this 24th day of April, 1989 and effective immediately upon its adoption.

* * * * *

ATTEST:

Asst. Deputy 
Clerk to the Board of County
Commissioners in and for the
County of Orange, State of
Florida


VICE Chairman, Board of County
Commissioners

Date: APR 25 1989

O:032/1095

RESOLUTION 89-002

A RESOLUTION PROVIDING FOR THE REFINANCING OF AN INDUSTRIAL OR MANUFACTURING PLANT BY THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY; PROVIDING FOR THE ISSUANCE BY SAID ORANGE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY OF \$575,000 PRINCIPAL AMOUNT OF ITS INDUSTRIAL DEVELOPMENT REVENUE REFUNDING BONDS (NOLAND COMPANY PROJECT), SERIES 1989, TO REFUND THE \$575,000 AGGREGATE PRINCIPAL AMOUNT OF ORANGE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY INDUSTRIAL DEVELOPMENT REVENUE BONDS (NOLAND COMPANY PROJECT), SERIES 1984, PREVIOUSLY ISSUED; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SUCH BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS; AND AWARDING SUCH BONDS TO THE PURCHASERS THEREOF.

BE IT RESOLVED BY THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY:

Section 1. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to the provisions of the Florida Industrial Development Financing Act, Parts II and III of Chapter 159, Florida Statutes, as amended, and other applicable provisions of law.

SECTION 2. DEFINITIONS. Unless the context otherwise requires, the terms defined in this section shall have the meanings specified in this section. Words importing the singular shall include the plural and words importing the plural shall include the singular, and words importing persons shall include corporations and other entities or associations.

"Act" means the Florida Industrial Development Financing Act, Parts II and III of Chapter 159, Florida Statutes, as now or hereafter supplemented or amended.

"Authority" means the Orange County Industrial Development Authority, a public body politic and corporate and a public instrumentality duly created and existing under and by virtue of the laws of the State of Florida.

"Authority's Arbitrage Certificate" means the certificate in substantially the form attached hereto as Exhibit D and incorporated herein by reference, dated as of the date of issuance and delivery of the Bonds, to be executed by the Authority.

"Bonds" or "Bond" shall mean any or all of the Authority, designated the Orange County Industrial Development Authority Industrial Development Revenue Refunding Bonds (Noland Company Project), Series 1989, in the aggregate principal amount of \$575,000, to be authorized and issued by the Authority, authenticated by the Trustee and delivered under the Indenture.

"Bond Purchase Agreement" means the agreement in substantially the form attached hereto as Exhibit C, and incorporated herein by reference, and entitled "Bond Purchase Agreement" to be dated at or prior to the closing date between the Authority, the Purchaser and the Company.

"Company" means Noland Company, a Virginia corporation.

"Indenture" means the agreement in substantially the form attached hereto as Exhibit B and incorporated herein by reference, entitled "Trust Indenture," dated as of April 1, 1989, to be executed by and between the Authority and the Trustee.

"Purchaser" means First Commerce Capital, a Division of Porter, White & Yardley, Inc., Montgomery, Alabama.

"Refunding Agreement" means the agreement in substantially the form attached hereto as Exhibit A, incorporated herein by reference, and entitled "Refunding Agreement" dated as of April 1, 1989, to be executed by and between the Issuer and the Company.

"Trustee" means the banking corporation or association designated as Trustee in the Indenture, its successor or successors as such Trustee. The original Trustee is Crestar Bank, Richmond, Virginia.

All capitalized terms used herein and not otherwise defined hereinabove shall have the meanings assigned to them in Section 101 of the Indenture.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared as follows:

A. The Authority is authorized and empowered by the Act to finance or refinance the cost of acquiring, constructing, reconstructing, improving, rehabilitating, renovating, expanding and enlarging or making additions to, furnishing and equipping capital projects for industrial or manufacturing plants including rights in land, buildings and other structures, machinery, equipment and appurtenances and facilities incidental thereto, and other improvements necessary or convenient therefor, through the issuance of industrial development revenue bonds, in order to promote the economic growth of Orange County, Florida (the

"County"), and the industrial economy of the State of Florida (the "State"), to increase purchasing power and opportunities for gainful employment, to improve living conditions and to advance and improve the economic prosperity and the general welfare of the State and its people.

B. There have been issued the Authority's Industrial Development Revenue Bonds (Noland Company Project), Series 1984 in the aggregate principal amount of \$575,000 (the Prior Bonds) for the purpose of acquiring, constructing and equipping certain facilities located in Orange County, Florida (the "Project"), as defined in the Refunding Agreement); all of the Prior Bonds remain outstanding; the Authority proposes to issue its refunding bonds under the Act in the aggregate principal amount of \$575,000 and to use the proceeds thereof to pay the outstanding principal amount of the Prior Bonds, for the purpose of refinancing the Project; such refinancing is desirable in order to promote the economic growth of the County and the industrial and business economy of the State of Florida, to increase purchasing power and opportunities for gainful employment, to improve living conditions and to advance and improve the economic prosperity and the general welfare of the State and its people and, to that end, the Authority should refinance the cost of acquiring, constructing and equipping the Project plant through the issuance of its revenue refunding bonds to be designated "Orange County Industrial Development Authority, Industrial Development Revenue Refunding Bonds" (Noland Company Project), Series 1989, in the principal amount of \$575,000 (the "Bonds"), to be issued under the Indenture for the purpose of providing funds to pay the principal amount of the Prior Bonds outstanding.

C. The financing and refinancing of the cost of acquiring, constructing, and equipping the Project through the Issuance of the Bonds constitutes an appropriate use of the Authority's bonding powers and will result in a substantial public benefit.

D. The issuance and sale of the Bonds, as provided for in this Resolution, shall not be consummated until the same has been approved by the County Commission in compliance with Section 125.01(1)(z) of Chapter 159, Florida Statutes, as amended.

E. The Project constitutes and will constitute a "capital project for an industrial or manufacturing plant" within the meaning of Article VII, Section 10(c) of the Florida Constitution and a "project" within the meaning of the Act.

F. The Project makes a significant contribution to the economic growth of the County, provides gainful employment and serves a public purpose by advancing the economic prosperity and the general welfare of the State and its people and will result in a substantial public benefit.

G. The Company is financially responsible and fully capable and willing to fulfill its obligations under the Refunding Agreement, including the obligation to make installment payments, in the amounts and at the times required by the Refunding Agreement, the obligation to operate, repair and maintain the Project at its own expense and the obligation to serve the purposes of the Act and to perform the other responsibilities to be imposed under the Refunding Agreement, due consideration having been given to ratios of current assets to current liabilities, net worth, earning trends, and coverage of all fixed charges shown on the financial statements of the Company, the nature of the industry or business involved, its inherent stability, and all other factors determinative of the capability of the Company, financially and otherwise, to fulfill its obligations consistently with the purposes of the Act. The Bonds will also be secured by a direct pay Letter of Credit of Wachovia Bank and Trust Company, N.A.

H. The County will be able to cope satisfactorily with the impact of the Project and will be able to provide, or cause to be provided when needed, the public facilities, including utilities and public services, that will be necessary for the construction, operation, repair and maintenance of the Project and on account of any increase in population or other circumstances resulting therefrom.

I. Adequate provision is made under the Refunding Agreement for the operation, repair and maintenance of the Project at the expense of the Company, and for the payment of the principal of, premium, if any, and interest on the Bonds by the Company and for the payment by the Company of all other costs incurred by the Authority in connection with the financing, construction and administration of the Project which are not paid out of the proceeds from the sale of the Bonds.

J. The principal of, premium, if any, and interest on the Bonds and all payments required to be made by the Authority under the Indenture, or otherwise, in connection with the Project or the Bonds shall be payable solely from the proceeds of the Bonds and the revenues from the Project; neither the Authority, the County nor any political subdivision of the State shall ever be required (i) to levy ad valorem taxes on any property within its territorial limits to pay the principal of, premium, if any, or interest on the Bonds or to make any other payments provided for under the Indenture, or (ii) to pay the same from any funds of the Authority other than the proceeds of the sale of the Bonds and the revenues from the Project.

K. The payments to be made by the Company to the Trustee, for the account of the Authority, under the Refunding Agreement will be sufficient to pay all principal of, premium, if any, and

interest on the Bonds, when and as the same shall become due, and to make all other payments required by the Indenture.

L. The interest on the Bonds held by persons who are neither substantial users of the Project nor related persons will be exempt from federal income taxation under existing laws of the United States.

M. A negotiated sale of the Bonds at a price equal to the principal amount thereof plus accrued interest from the date of the Bonds to the date of the sale thereof will best effectuate the purposes of the Act. A negotiated sale of the Bonds to the Purchaser is in the best interest of the Authority, in general, due to the nature of the issue, prevailing interest rates and the marketability of the Bonds; and specifically for the following additional reasons: (i) in the opinion of the Company and the Authority, the interest rate on the Bonds is at or below interest rates for similar obligations and could not be lower even if competitive bidding had been or were to be utilized; (ii) the necessity of refinancing of the Project requires the immediate issuance of the Bonds at present favorable interest rates in completion with sale of Bonds from other states for the benefit of the Company; (iii) the Authority will not be adversely affected if competitive bidding is not utilized, since the Company will be required to pay (x) all costs of the Authority in connection with the financing, construction and administration of the Project which are not paid out of the proceeds of the Bonds, (y) the cost of the issuance of the Bonds, and (z) all other charges in connection with the Bonds, and the Bonds will be special and limited obligations of the Authority payable solely out of monies derived by the Authority from the Project and the payments to be made by the Company.

N. The purposes of the Act will be more effectively served by the refinancing of the acquisition, construction and equipping of the Project by the Company, as provided in the Refunding Agreement.

SECTION 4. PROJECT AUTHORIZED. The acquisition, construction and equipping of the Project by the Company has previously been authorized and is hereby ratified and confirmed.

SECTION 5. AUTHORIZATION OF THE BONDS. The Bonds, in the form described in the Indenture, are hereby authorized for issuance pursuant to the Indenture. The Bonds shall be issued in such amount, shall bear interest at such rates, and have such maturities as are set forth in the Indenture. The Chairman or Vice Chairman of the Authority is hereby authorized and directed to execute and the Secretary or Assistant Secretary to attest, under the official seal of the Authority, the Bonds, to cause the Bonds to be authenticated by the Trustee, and to deliver the

Bonds to the Purchaser as provided in the Bond Purchase Agreement upon receipt by the Authority, or by the Trustee for the account of the Authority, of the proceeds from the sale thereof. The Bonds are to be dated the date of delivery to the Purchaser, and interest thereon shall be payable as provided in the Bonds and the Bond Purchase Agreement. The date of the Indenture and the Refunding Agreement will be April 1, 1989 and the date of the Bond Purchase Agreement shall be the date on or before the delivery of the Bonds. The Bonds will be payable as to principal and interest and mature as provided in the Bonds, the Refunding Agreement, the Bond Purchase Agreement and the Indenture. All of the provisions of the Bonds, when executed, authenticated and delivered, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein.

SECTION 6. AUTHORIZATION OF EXECUTION AND DELIVERY OF REFUNDING AGREEMENT. The Refunding Agreement, in substantially the form thereof attached hereto as Exhibit A, with such changes, alterations and corrections as may be approved by the Chairman or Vice Chairman and the Secretary or Assistant Secretary of the Authority, such approval to be evidenced conclusively by their execution thereof, is hereby approved by the Authority, and the Chairman or Vice Chairman of the Authority is hereby authorized and directed to execute and said Secretary or Assistant Secretary to attest, under the official seal of the Authority, the Refunding Agreement and to deliver the Refunding Agreement to the other parties thereto. All of the provisions of the Refunding Agreement, when executed and delivered by the Authority as authorized herein and by the other parties thereto shall be deemed to be part of this Resolution as fully and to the same extent as if incorporated verbatim herein.

SECTION 7. AUTHORIZATION OF EXECUTION AND DELIVERY OF THE INDENTURE. The Indenture, in substantially the form thereof attached hereto as Exhibit B, with such changes, alterations and corrections as may be approved by the Chairman or Vice Chairman and the Secretary or Assistant Secretary of the Authority, such approval to be evidenced conclusively by their execution thereof, is hereby approved by the Authority, and the Chairman or Vice Chairman of the Authority is hereby authorized and directed to execute and said Secretary or Assistant Secretary to attest, under the official seal of the Authority, the Indenture and to deliver the Indenture to the Trustee. All of the provisions of the Indenture, when executed and delivered by the Trustee, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein. The Authority does hereby provide in the Indenture the terms, conditions, covenants, rights, obligations, duties and agreements to and for the benefit of the owners of the Bonds, the Purchaser, the Authority, the Company, Wachovia Bank and Trust Company, N.A., as issuer of a Letter of Credit securing payment of the Bonds, and the Trustee.

SECTION 8. AUTHORIZATION OF EXECUTION AND DELIVERY OF BOND PURCHASE AGREEMENT. The Bond Purchase Agreement, in substantially the form thereof attached hereto as Exhibit C, with such changes, alterations and corrections as may be approved by the Chairman or Vice Chairman and the Secretary or Assistant Secretary of the Authority, such approval to be evidenced conclusively by their execution thereof, is hereby approved by the Authority, and the Chairman or Vice Chairman of the Authority is hereby authorized and directed to execute and said Secretary or Assistant Secretary to attest, under the official seal of the Authority, the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the other parties thereto. All of the provisions of the Bond Purchase Agreement, when executed and delivered by the Authority and by the other parties thereto shall be deemed to be part of this Resolution as fully and to the same extent as if incorporated verbatim herein.

SECTION 9. AUTHORIZATION OF EXECUTION OF AUTHORITY'S ARBITRAGE CERTIFICATE. The Authority's Arbitrage Certificate, in substantially the form thereof attached hereto as Exhibit D, with such changes, alterations and corrections as may be approved by the Chairman or Vice Chairman and the Secretary or Assistant Secretary of the Authority, such approval to be evidenced conclusively by their execution thereof, is hereby approved by the Authority, and the Chairman or Vice Chairman and said Secretary or Assistant Secretary of the Authority are hereby authorized and directed to execute, under the official seal of the Authority, the Authority's Arbitrage Certificate and to deliver the Authority's Arbitrage Certificate to the Trustee and to Hunton & Williams, as Bond Counsel. The Authority's Arbitrage Certificate, when executed and delivered by the Authority as authorized herein, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein.

SECTION 10. BONDS AWARDED TO PURCHASERS THEREOF. The Bonds shall be sold and delivered to the Purchaser, at the price of par plus accrued interest from the date of the Bonds to the date of sale thereof as provided in the Bond Purchase Agreement.

SECTION 11. AUTHORIZATION OF EXECUTION OF OTHER CERTIFICATES. The Chairman or Vice Chairman and the Secretary or Assistant Secretary of the Authority are hereby authorized and directed, either separately or jointly, under the official seal of the Authority, to execute and deliver certificates of the Authority certifying such facts to Hunton & Williams, Bond Counsel, as such counsel shall require in connection with the issuance, sale and delivery of the Bonds and to execute and deliver such other certificates and instruments, including without limitation an Election of the Authority pursuant to Section 103(b)(6)(D) and (H) of the Internal Revenue Code of 1954, as amended, and Section 144(a)(4)(A) and (E) of the Internal Revenue Code of

1986, as amended, and the Internal Revenue Service Form 8038, as they may consider necessary or desirable in connection with the issuance and sale of the Bonds.

SECTION 12. NO PERSONAL LIABILITY. No covenant, stipulation, obligation or agreement herein contained, or contained in the Bonds, the Refunding Agreement, the Bond Purchase Agreement or the Indenture shall be deemed to be a covenant, stipulation, obligation or agreement of any member, agent, employee or official of the Authority or its governing body in his individual capacity, and none of the foregoing persons nor any official of the Authority executing the Bonds, the Loan Agreement, the Bond Purchase Agreement or the Indenture, shall be liable personally thereon or be subject to any personal liability or accountability by reason of the execution, delivery or assignment thereof.

SECTION 13. NO THIRD PARTY BENEFICIARIES. Except as otherwise expressly provided herein or in the Bonds, the Refunding Agreement, the Bond Purchase Agreement or the Indenture, nothing in this Resolution, or in the Bonds, the Refunding Agreement, the Bond Purchase Agreement or the Indenture, expressly or implied, is intended or shall be construed to confer upon any person or firm or corporation other than the Authority, the Purchaser (and the owners from time to time of the Bonds), the Trustee under the Indenture, the Remarketing Agent under the Bond Purchase Agreement, the Company, Wachovia Bank and Trust Company, N.A. and the Trustee any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provisions hereof, or of the Bonds, the Refunding Agreement, the Bond Purchase Agreement or the Indenture, and all provisions thereof being intended to be and being for the sole and exclusive benefit of the Authority, the Purchaser (and the owners from time to time of the Bonds), the Remarketing Agent under the Bond Purchase Agreement, the Company, Wachovia Bank and Trust Company, N.A. and the Trustee.

SECTION 14. PREREQUISITES PERFORMED. All acts, conditions and things relating to the passage of this Resolution, to the issuance, sale and delivery of the Bonds, and to the execution and delivery, acceptance or assignment of the Refunding Agreement, the Bond Purchase Agreement, and the Indenture, required by the Constitution or other laws of the State to happen, exist and be performed precedent to and in the passage hereof, and precedent to the issuance of the Bonds, and precedent to the execution and delivery, acceptance or assignment of the Refunding Agreement, the Bond Purchase Agreement, and the Indenture, have happened, exist and have been performed, or prior to issuance of the Bonds will have been performed, as so required.

SECTION 15. GENERAL AUTHORITY. The members, officials, attorneys, engineers or other agents or employees of the Authority are hereby authorized to do all acts and things required of them

by this Resolution, the Bonds, the Refunding Agreement, the Bond Purchase Agreement and the Indenture, and do to all acts and things which are desirable and consistent with the requirements hereof or of the Bonds, the Refunding Agreement, the Bond Purchase Agreement and the Indenture for the full, punctual and complete performance of all the terms, covenants and agreements contained in the Bonds, the Refunding Agreement, the Bond Purchase Agreement, the Indenture and this Resolution.

SECTION 16. CONTRACTS. The Authority covenants and agrees that all covenants and agreements set forth in the Refunding Agreement, the Bond Purchase Agreement and the Indenture, to be performed by the Authority shall be for the equal and ratable benefit and security of all holders from time to time of the Bonds without privilege, priority or distinction as to lien or otherwise of the Bonds over any other Bonds (except as to amounts of interest paid to the Trustee as provided in the Indenture).

SECTION 17. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy or express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions, and shall in no way affect the validity of any of the other provisions hereof or of the Bonds issued hereunder.

SECTION 18. REPEALING CLAUSE. All resolutions or parts thereof of the Authority in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 19. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution was offered by _____, who moved its adoption. The motion was seconded by _____, and, upon being put to a vote, the vote was as follows:

Voting in Favor: _____

Voting Against: _____

Absent: _____

Abstain: _____

The Chairman then declared the Resolution to be duly passed and adopted.

PASSED AND ADOPTED this ____ day of _____, 1989.

Chairman of the Orange County
Industrial Development
Authority

(OFFICIAL SEAL)

Attest:

Secretary of the Orange County
Industrial Development Authority