

The State of South Carolina



Office of the Attorney General

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October 31, 1985

Frank E. Harrison, Esquire
McCormick County Attorney
Post Office Box 56
McCormick, South Carolina 29835

Dear Mr. Harrison:

By your letter of October 28, 1985, you have asked this Office to examine a proposed agreement between McCormick County Council and McCormick Arts Council at the Keturah ("MACK"), whereby MACK will, for compensation, promote civic, cultural, and other recreational and tourism-related functions for McCormick County. Your particular question is whether the public funds involved would be expended for a public purpose. As County Attorney, you have provided a great deal of input in the matter through telephone conversations; we both now concur that the expenditure of funds would meet the public purpose test.

The provision of recreation services has been recognized as being for a public purpose. See Section 4-9-30(5), Code of Laws of South Carolina (1984 Cum. Supp.) and Op. Atty. Gen. dated January 21, 1985. Furthermore, the promotion of tourism-related activities has been found by the General Assembly to be a public purpose by its passage of the Accommodations Tax Act, Act No. 316, 1984 Acts and Joint Resolutions, particularly in the legislative findings of section 1. Thus, the purposes for which the agreement is contemplated are recognized public purposes. Furthermore, such services may be provided by a non-profit corporation. See Gilbert v. Bath, 267 S.C. 171, 227 S.E.2d 177 (1976) and Bolt v. Cobb, 225 S.C. 408, 82 S.E.2d 789 (1954), among many other cases so holding.

A review of the proposed agreement enclosed with your letter details the sections of the South Carolina Code of Laws relative to provision, by a county, of recreation and tourist services; the ability and willingness of MACK, an eleemosynary

REQUEST LETTER

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non-profit corporation to provide those services; and a finding of public purpose within the recitals. Consideration to be paid by McCormick County Council and services to be rendered by MACK are specified. Because a non-profit corporation may be utilized to provide these services and further because the public purpose is detailed in the agreement, it would appear that the adoption of such an agreement would be permissible for the reasons outlined in an opinion of this Office dated April 17, 1985, a copy of which is enclosed.

We trust that the foregoing has satisfactorily responded to your inquiry. If you need additional assistance or clarification, please advise us.

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP:hcs

Enclosure

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions