

11-R-1544

(Do Not Write Above This Line)

A RESOLUTION BY
COMMUNITY
DEVELOPMENT/HUMAN
RESOURCES COMMITTEE

A RESOLUTION AUTHORIZING
THE MAYOR, OR HIS DESIGNEE,
ON BEHALF OF THE CITY OF
ATLANTA TO ENTER INTO AN
INTERGOVERNMENTAL
AGREEMENT WITH THE U.S.
DEPARTMENT OF THE ARMY
FOR USE OF U.S. DEPARTMENT
OF THE ARMY PUBLIC PARK
AND RECREATIONAL SPACE AT
ALLATOONA LAKE; AND FOR
OTHER PURPOSES.

ADOPTED BY

NOV 07 2011

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

Committee

Date

Chair

Action

Fav, Adv, Hold (See rev.side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (See rev.side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (See rev.side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (See rev.side)

Other

Members

Refer To

FINAL COUNCIL ACTION

2ND 1ST & 2ND 3RD

Readings

Consent V Vote RC Vote

CERTIFIED

CERTIFIED
 NOV 07 2011

Renee Daughin Johnson
 MUNICIPAL CLERK

CERTIFIED
 NOV 07 2011
 ATLANTA CITY COUNCIL PRESIDENT
[Signature]

MAYOR'S ACTION

APPROVED

NOV 16 2011

WITHOUT SIGNATURE
BY OPERATION OF LAW



**A RESOLUTION BY
COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE U.S. DEPARTMENT OF THE ARMY FOR USE OF U.S. DEPARTMENT OF THE ARMY PUBLIC PARK AND RECREATIONAL SPACE AT ALLATOONA LAKE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (“City”) entered into an intergovernmental agreement with the U.S. Department of the Army (“Army”) for the use of land lots 818, 819 and 839, Twenty-First Land District, Section Cherokee County, Georgia (“Allatoona Property”); and

WHEREAS, the intergovernmental agreement was executed on October 5, 1975 and expired on October 4, 2011; and

WHEREAS, the City has made numerous improvements to the Allatoona Property by renovating existing cabin structures, replacing others, and also participates in the annual Lake Allatoona Preservation Authority’s “Great Lake Allatoona Cleanup!”; and

WHEREAS, the Department of Parks, Recreation and Cultural Affairs provides a variety of recreational activities on the Allatoona Property; and

WHEREAS, the City desires to continue its use of the Allatoona Property; and

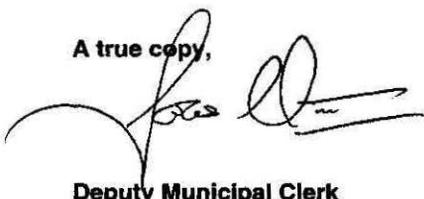
WHEREAS, the Commissioner of the Department of Parks, Recreation and Cultural Affairs and the Chief Procurement Officer recommend that the City to enter into a new intergovernmental agreement with the Army for a term of twenty (20) years expiring on October 4, 2031.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES, that the Mayor, or his designee, on behalf of the City is authorized to enter into an intergovernmental agreement (hereto attached as Exhibit “A”) with the U.S. Department of the Army for use of public park and recreational space at Allatoona Lake for a term of twenty (20) years expiring on October 4, 2031.

BE IT FURTHER RESOLVED, that the City shall owe no rent for use of the Allatoona Property and in exchange the City agrees to operate and maintain the Allatoona Property for the benefit of the Army and the general public.

BE IT FURTHER RESOLVED, that the intergovernmental agreement will not become binding upon the City, and the City shall incur no liability upon same until it has been approved by the City Attorney as to form, executed by the Mayor, attested to by the Municipal Clerk, and delivered to the Army.

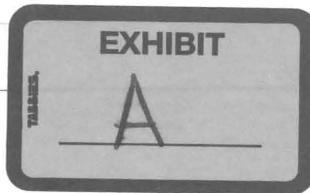
A true copy,



Deputy Municipal Clerk

**ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403**

**Nov. 07, 2011
Nov. 16, 2011**



NO. DACW01-1-11-0473

DEPARTMENT OF THE ARMY
LEASE TO NON-STATE GOVERNMENTAL AGENCIES
FOR PUBLIC PARK AND RECREATIONAL PURPOSES
ALLATOONA LAKE
CHEROKEE COUNTY, GEORGIA
I-801

THIS LEASE is made on behalf of the United States and the **SECRETARY OF THE ARMY**, hereinafter referred to as the Secretary, and **CITY OF ATLANTA**, a political subdivision of the State of Georgia, acting by and through its City Council, hereinafter referred to as the Lessee,

WITNESSETH:

That the Secretary, by authority of Title 16, United States Code, Section 460d, and for the consideration hereinafter set forth, hereby leases to the Lessee, the property identified in **Exhibit "A" and as shown in red on Exhibit "B"**, attached hereto and made a part hereof, hereinafter referred to as the premises, for public park and recreational purposes.

THIS LEASE is granted subject to the following conditions:

1. TERM

Said premises are hereby leased for a term of twenty (20) years, beginning October 5, 2011 and ending October 4, 2031.

2. CONSIDERATION

The consideration for this lease is the operation and maintenance of the premises by the Lessee for the benefit of the United States and the general public in accordance with the conditions herein set forth.

3. NOTICES

All correspondence and notices to be given pursuant to this lease shall be addressed, if to the Lessee to **Department of Parks, Recreation and Cultural Affairs, 675 Ponce De Leon Ave, Suite 800, Atlanta, Georgia, 30308**; and if to the United States, to the **District Engineer, Attention: CESAM-RE-C, P.O. Box 2288, Mobile, AL 36628-0001**, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope, or wrapper, addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

4. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to "Secretary of the Army," "District Engineer," "said officer" or "Lessor" shall include their duly authorized representatives. Any reference to "Lessee" shall include sublessees, assignees, transferees, concessionaires, and its duly authorized representatives.

5. DEVELOPMENT PLANS

The Lessee shall be guided by an annual Plan of Operation and Maintenance in furtherance of the Lessee's implementing Plan of Recreation Development and Management (Development Plan) attached as Exhibit "C" which shows the facilities and services necessary to meet the current and potential public demand and the management and development activities to be undertaken by the Lessee and any sublessees. No later than March 15th of each year the Lessee will submit the annual Plan to be mutually agreed on between the Lessee and the District Engineer. Such annual Plan shall include but is not limited to the following:

a. Plans for management, maintenance and development activities to be undertaken by the Lessee and any sublessees.

b. Report of the management, maintenance and development accomplishments of the Lessee for the preceding year.

c. Report on any significant modification of policies or procedures which are planned for the following year as well as those implemented in the preceding year.

d. Minor modifications to the Development Plan. Major modifications are to be accomplished by amendment to the Plan before proceeding to implement any changes in the development or management of the leased premises.

e. Budget of the Lessee for carrying out all activities for the upcoming year.

f. Personnel to be used in the management of the leased premises.

The use and occupation of the premises shall be subject to the general supervision and approval of the District Engineer.

During the term of the lease, the District Engineer will notify the Lessee of any updates to the existing project Master Plan affecting the premises and the Lessee may provide comments.

6. STRUCTURES AND EQUIPMENT

The Lessee shall have the right, during the term of the lease, to erect such structures and to provide such equipment upon the premises as may be necessary to furnish the facilities and services authorized. Those structures and equipment shall be and remain the property of the

Lessee, except as otherwise provided in the Condition on **RESTORATION**. However, no structures may be erected or altered upon the premises unless and until the type of use, design, and proposed location or alteration thereof shall have been approved in writing by the District Engineer. The District Engineer may require the Lessee, upon the completion of each of the proposed developments to furnish complete "as built" construction plans for all facilities.

7. APPLICABLE LAWS AND REGULATIONS

a. The Lessee shall comply with all applicable Federal laws and regulations and with all applicable laws, ordinances, and regulations of the state, county, and municipality wherein the premises are located, including, but not limited to, those regarding construction, health, safety, food service, water supply, sanitation, use of pesticides, and licenses or permits to do business. The Lessee shall make and enforce such regulations as are necessary and within its legal authority in exercising the privileges granted in this lease, provided that such regulations are not inconsistent with those issued by the Secretary of the Army or with the provisions of 16 U.S.C. § 460d.

b. The Lessee will provide an annual certification that all water and sanitary systems on the premises have been inspected and comply with Federal, state and local standards. The Lessee will also provide a statement of compliance with the Rehabilitation Act and the Americans with Disabilities Act, as required in the Condition on **NON-DISCRIMINATION**, noting any deficiencies and providing a schedule for correction.

8. CONDITION OF PREMISES

a. The Lessee acknowledges that it has inspected the premises, knows its condition, and understands that the same is leased without any representations or warranties whatsoever and without obligation on the part of the United States to make any alterations, repairs, or additions thereto.

b. As of the date of this lease, an inventory and condition report of all personal property and improvements of the United States included in this lease shall be made by the District Engineer and the Lessee to reflect the condition of all property and said improvements. A copy of said report is attached hereto as Exhibit **LETTER** and made a part hereof. Upon the expiration, revocation, or termination of this lease, another inventory and condition report shall be similarly prepared. This report shall constitute the basis for settlement for property damaged or destroyed. Any such property must be either replaced or restored to the condition required by the Condition on **PROTECTION OF PROPERTY**.

9. FACILITIES AND SERVICES

The Lessee shall provide the facilities and services as agreed upon in the Development Plan referred to in the Condition on **DEVELOPMENT PLANS** either directly or through subleases or concession agreements that have been reviewed and accepted by the District Engineer. These subleases or agreements shall state: (1) that they are granted subject to the provisions of this

lease; and (2) that the agreement will not be effective until the third party activities have been approved by the District Engineer. The Lessee will not allow any third party activities with a rental to the Lessee or prices to the public which would give the third party an undue economic advantage or circumvent the intent of the Development Plan. The rates and prices charged by the Lessee or its sub-lessees or concessionaires shall be reasonable and comparable to rates charged for similar goods and services by others in the area. The use of sub-lessees and concessionaires will not relieve the Lessee from the primary responsibility for ensuring compliance with all of the terms and conditions of this lease.

10. TRANSFERS, ASSIGNMENTS, SUBLEASES

a. Without prior written approval of the District Engineer, the Lessee shall neither transfer nor assign this lease nor sublet the premises or any part thereof, nor grant any interest, privilege, or license whatsoever in connection with this lease.

b. The Lessee will not sponsor or participate in timeshare ownership of any structures, facilities, accommodations, or personal property on the premises. The Lessee will not subdivide nor develop the premises into private residential development.

11. FEES

Fees may be charged by the Lessee for the entrance to or use of the premises or any facilities, however, no user fees may be charged by the Lessee or its sub-lessees for use of facilities developed in whole or part with federal funds if a user charge by the Corps of Engineers for the facility would be prohibited under law.

12. ACCOUNTS, RECORDS AND RECEIPTS

All monies received by the Lessee from operations conducted on the premises, including, but not limited to, entrance, admission and user fees and rental or other consideration received from its concessionaires, may be utilized by the Lessee for the administration, maintenance, operation and development of the premises. Beginning 5 years from the date of this lease and continuing at 5-year intervals, any such monies not so utilized or programmed for utilization within a reasonable time shall be paid to the District Engineer. The Lessee shall establish and maintain accurate records and accounts and provide an annual statement of receipts and expenditures to the District Engineer. Annual or weekly entrance fees not collected on the Project, which also are honored at other recreational areas operated by the Lessee, are excluded from this requirement. The District Engineer shall have the right to perform audits or to require the Lessee to audit the records and accounts of the Lessee, third party concessionaires and sub-lessees, in accordance with auditing standards and procedures promulgated by the American Institute of Certified Public Accountants or by the state, and furnish the District Engineer with the results of such an audit.

13. PROTECTION OF PROPERTY

The Lessee shall be responsible for any damage that may be caused to property of the United States by the activities of the Lessee under this lease and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the Lessee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Lessee to the satisfaction of the District Engineer, or, at the election of the District Engineer, reimbursement may be made therefore by the Lessee in an amount necessary to restore or replace the property to a condition satisfactory to the District Engineer.

14. RIGHT TO ENTER AND FLOOD

The right is reserved to the United States, its officers, agents, and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with Government purposes; to make inspections; to remove timber or other material, except property of the Lessee; to flood the premises; to manipulate the level of the lake or pool in any manner whatsoever; and/or to make any other use of the land as may be necessary in connection with project purposes, and the Lessee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

15. LIGHTS, SIGNALS AND NAVIGATION

There shall be no unreasonable interference with navigation by the exercise of the privileges granted by this lease. If the display of lights and signals on any work hereby authorized is not otherwise provided for by law, such lights and signals as may be prescribed by the Coast Guard or by the District Engineer shall be installed and maintained by and at the expense of the Lessee.

16. INSURANCE

a. At the commencement of this lease, the Lessee, unless self-insured, and its sub-lessees and concessionaires at the commencement of operating under the terms of this lease as third parties, shall obtain from a reputable insurance company or companies contracts of liability insurance. The insurance shall provide an amount not less than that which is prudent, reasonable and consistent with sound business practices, or a minimum combined Single Limit of \$1,000,000.00, whichever is greater, for any number of persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom, property damage, or both, suffered or alleged to have been suffered by any person or persons, resulting from the operations of the Lessee, sub-lessees and concessionaires under the terms of this lease. The Lessee shall require its insurance company to furnish to the District Engineer a copy of the policy or policies or, if acceptable to the District Engineer, certificates of insurance evidencing the purchase of such insurance. The minimum amount of liability insurance coverage is subject to revision by the District Engineer every three years or upon renewal or modification of this lease.

b. The insurance policy or policies shall specifically provide protection appropriate for the types of facilities, services and products involved; and shall provide that the District Engineer be given thirty (30) days notice of any cancellation or change in such insurance.

c. In the event the Lessee is self-insured, the Lessee shall certify such self-insurance in writing in the minimum amount specified above to the District Engineer. The Lessee's insurance status shall not eliminate the requirement for its sub-lessees and concessionaires to have insurance from a reputable insurance carrier as set out above.

d. The District Engineer may require closure of any or all of the premises during any period for which the Lessee and/or its sub-lessees and concessionaires do not have the required insurance coverage.

17. RESTORATION

On or before the expiration of this lease or its termination by the Lessee, the Lessee shall vacate the premises, remove the property of the Lessee, and restore the premises to a condition satisfactory to the District Engineer. If, however, this lease is revoked, the Lessee shall vacate the premises, remove said property therefrom, and restore the premises to the aforesaid condition within such time as the District Engineer may designate. In either event, if the Lessee shall fail or neglect to remove said property and restore the premises, then, at the option of the District Engineer, said property shall either become the property of the United States without compensation therefore, or the District Engineer may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The Lessee shall also pay the United States on demand any sum which may be expended by the United States after the expiration, revocation or termination of this lease in restoring the premises.

18. NON-DISCRIMINATION

a. The Lessee shall not discriminate against any person or persons or exclude them from participation in the Lessee's operations, programs or activities conducted on the leased premises, because of race, color, religion, sex, age, handicap, or national origin. The Lessee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines (ADAAG) published by the Architectural And Transportation Barriers Compliance Board.

b. The Lessee, by acceptance of this lease, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directive 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Lessee, its agents, successors, transferees, sub-lessees and assigns.

19. SUBJECT TO EASEMENTS

This lease is subject to all existing easements, easements subsequently granted, and established access routes for roadways and utilities located, or to be located, on the premises, provided that the proposed grant of any new easement or route will be coordinated with the Lessee, and easements will not be granted which will, in the opinion of the District Engineer, interfere with developments, present or proposed, by the Lessee. The Lessee will not close any established access routes without written permission of the District Engineer.

20. SUBJECT TO MINERAL INTERESTS

This lease is subject to all outstanding mineral interests. As to federally owned mineral interests, it is understood that they may be included in present or future mineral leases issued by the Bureau of Land Management (BLM), which has responsibility for mineral development on Federal lands. The Secretary will provide lease stipulations to BLM for inclusion in such mineral leases that are designed to protect the premises from activities that would interfere with the Lessee's operations or would be contrary to local laws.

21. COMPLIANCE, CLOSURE, REVOCATION AND RELINQUISHMENT

a. The Lessee and/or any sub-lessees or licensees are charged at all times with full knowledge of all the limitations and requirements of this lease, and the necessity for correction of deficiencies, and with compliance with reasonable requests by the District Engineer. This lease may be revoked in the event that the Lessee violates any of the terms and conditions and continues and persists in such non-compliance, or fails to obtain correction of deficiencies by sub-lessees or licensees. The Lessee will be notified of any non-compliance, which notice shall be in writing or shall be confirmed in writing, giving a period of time in which to correct the non-compliance. Failure to satisfactorily correct any substantial or persistent non-compliance within the specified time is grounds for closure of all or part of the premises, temporary suspension of operation, or revocation of the lease, after notice in writing of such intent. Future requests by the Lessee to extend the lease, expand the premises, modify authorized activities, or assign the lease shall take into consideration the Lessee's past performance and compliance with the lease terms.

b. This lease may be relinquished by the Lessee by giving one (1) year prior written notice to the District Engineer in the manner prescribed in the Condition on **NOTICES**.

22. HEALTH AND SAFETY

a. The Lessee shall keep the premises in good order and in a clean, sanitary, and safe condition and shall have the primary responsibility for ensuring that any sub-lessees and concessionaires operate and maintain the premises in such a manner.

b. In addition to the rights of revocation for non-compliance, the District Engineer, upon discovery of any hazardous conditions on the premises that presents an immediate threat to

health and/or danger to life or property, will so notify the Lessee and will require that the affected part or all of the premises be closed to the public until such condition is corrected and the danger to the public eliminated. If the condition is not corrected within the time specified, the District Engineer will have the option to revoke the lease. The Lessee and its assignees or sub-lessees shall have no claim for damages against the United States, or any officer, agent, or employee thereof on account of action taken pursuant to this condition.

23. PUBLIC USE

No attempt shall be made by the Lessee, or any of its sub-lessees or concessionaires, to forbid the full use by the public of the premises and of the water areas of the project, subject, however, to the authority and responsibility of the Lessee to manage the premises and provide safety and security to the visiting public.

24. PROHIBITED USES

a. The Lessee shall not permit gambling on the premises. Specifically prohibited are the use of gambling devices, such as slot machines, video gambling machines, or other casino type devices that would detract from the family atmosphere. District Engineers may allow the sale of state lottery tickets, in accordance with state and local laws and regulations, as long as the sale of tickets constitutes a collateral activity, rather than primary activity, of the Lessee. The Lessee shall not install or operate, or permit to be installed or operated thereon, any device which is illegal; or use the premises or permit them to be used for any illegal business or purpose. There shall not be conducted on or permitted upon the premises any activity which would constitute a nuisance.

b. As an exception, some games of chance, such as raffles, games and sporting events, may be conducted by nonprofit organizations under special permits issued in conjunction with special events, if permissible by state and local law. Any request to conduct such activities must be submitted in writing to the District Engineer.

c. In accordance with state and local laws and regulations, the Lessee may sell, store, or dispense or permit the sale, storage, or dispensing of beer, malt beverages, light wines or other intoxicating beverages on the premises in those facilities where such service is customarily found. Bar facilities will only be permitted if offered in connection with other approved activities. Advertising of such beverages outside of buildings is not permitted. Carry out package sales of hard liquor is prohibited.

25. NATURAL RESOURCES

The Lessee shall cut no timber, conduct no mining operations, remove no sand, gravel, or kindred substances from the ground, commit no waste of any kind, nor in any manner substantially change the contour or condition of the premises, except as may be authorized under and pursuant to the Development Plan described in the Condition on DEVELOPEMNT PLANS herein. The Lessee may salvage fallen or dead timber; however, no commercial use shall be

made of such timber. Except for timber salvaged by the Lessee when in the way of construction of improvements or other facilities, all sales of forest products will be conducted by the United States and the proceeds therefrom shall not be available to the Lessee under the provisions of this lease.

26. DISPUTES CLAUSE

a. Except as provided in the Contract Disputes Act of 1978 (41 U.S.C. § 601-613) (the Act), all disputes arising under or relating to this lease shall be resolved under this clause and the provisions of the Act.

b. "Claim," as used in this clause, means a written demand or written assertion by the Lessee seeking, as a matter of right, the payment of money in a sum certain, the adjustment of interpretation of lease terms, or other relief arising under or relating to this lease. A claim arising under this lease, unlike a claim relating to the lease, is a claim that can be resolved under a lease clause that provides for the relief sought by the Lessee. However, a written demand or written assertion by the Lessee seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph c.(2) below. The routine request for rental payment that is not in dispute is not a claim under the Act. The request may be converted to a claim under the Act, by this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

c. (1) A claim by the Lessee shall be made in writing and submitted to the said officer for a written decision. A claim by the Government against the Lessee shall be subject to written decision by the said officer.

(2) For Lessee claims exceeding \$100,000, the Lessee shall submit with the claim a certification that:

- (i) The claim is made in good faith;
 - (ii) Supporting data are accurate and complete to the best of the Lessee's knowledge and belief;
 - (iii) and the amount requested accurately reflects the lease adjustment for which the Lessee believes the Government is liable.
- (3) (i) If the Lessee is an individual, the certificate shall be executed by that individual.
- (ii) If the Lessee is not an individual, the certification shall be executed by:
- (A) A senior company official in charge at the Lessee's location involved;
- or

(B) An officer or general partner of the Lessee having overall responsibility of the conduct of the lessee's affairs.

d. For Lessee claims of \$100,000 or less, the said officer must, if requested in writing by the Lessee, render a decision within 60 days of the request. For Lessee-certified claims over \$100,000, the said officer must, within 60 days, decide the claim or notify the Lessee of the date by which the decision will be made.

e. The said officer's decision shall be final unless the Lessee appeals or files as suit as provided in the Act.

f. At the time a claim by the lessee is submitted to the said officer or a claim by the Government is presented to the Lessee, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternate dispute resolution procedures, any claim, regardless of amount, shall be accompanied by the certificate described in paragraph c.(2) of this clause, and executed in accordance with paragraph c.(3) of this clause.

g. The Government shall pay interest on the amount found due and unpaid by the Government from (1) the date the said officer received the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the said officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim. Rental amounts due to the Government by the Lessee will have interest and penalties as set out in the condition on **CONSIDERATION**.

h. The Lessee shall proceed diligently with the performance of the lease, pending final resolution of any request for relief, claim, appeal or action arising under the lease, and comply with any decision of the said officer.

27. ENVIRONMENTAL PROTECTION

a. Within the limits of their respective legal powers, the parties to this lease shall protect the project against pollution of its air, ground, and water. The Lessee shall comply promptly with any laws, regulations, conditions or instructions affecting the activity hereby authorized, if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the leased area is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency, are hereby made a condition of this lease. The Lessee shall require all sanitation facilities on boats moored at the Lessee's facilities, including rental boats, to be sealed against any discharge into the lake. Services for waste disposal, include swage pump-out of watercraft, shall be provided by the Lessee as appropriate. The Lessee shall not discharge waste or effluent from the premises in

such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The Lessee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from the Lessee's activities, the Lessee shall be liable to restore the damaged resources.

c. The Lessee must obtain approval in writing from the District Engineer before any pesticides or herbicides are applied to the premises.

28. ENVIRONMENTAL BASELINE STUDY

An Environmental Baseline Study (EBS) documenting the known history of the property with regard to the storage, release or disposal of hazardous substances thereon is attached hereto and made a part hereof as Exhibit "D". Upon expiration, revocation or termination of this lease, another EBS shall be prepared which will document the environmental condition of the property at that time. A comparison of the two assessments will assist the District Engineer in determining any environmental restoration requirements. Any such requirements will be completed by the Lessee in accordance with the condition on **RESTORATION**.

29. HISTORIC PRESERVATION

The Lessee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, remains, or objects of antiquity. In the event such items are discovered on the premises, the Lessee shall immediately notify the District Engineer and protect the site and the material from further disturbance until the District Engineer gives clearance to proceed.

30. SOIL AND WATER CONSERVATION

The Lessee shall maintain, in a manner satisfactory to the District Engineer, all soil and water conservation structures that may be in existence upon said premises at the beginning of, or that may be constructed by the Lessee during the term of, this lease, and the Lessee shall take appropriate measures to prevent or control soil erosion within the premises. Any soil erosion occurring outside the premises resulting from the activities of the Lessee shall be corrected by the Lessee as directed by the District Engineer.

31. TRANSIENT USE

a. Camping, including transient trailers or recreational vehicles, at one or more campsites for a period longer than thirty (30) days during any sixty (60) consecutive day period is prohibited. The Lessee will maintain a ledger and reservation system for the use of any such campsites.

b. Occupying any lands, buildings, vessels or other facilities within the premises for the purpose of maintaining a full- or part-time residence is prohibited, except for employees residing on the premises for security purposes, if authorized the District Engineer.

32. COVENANT AGAINST CONTINGENT FEES

The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessee for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to annul this lease without liability or, in its discretion, to require the Lessee to pay, in addition to the lease rental or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

33. OFFICIALS NOT TO BENEFIT

No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this lease or to any benefits to arise therefrom. However, nothing herein contained shall be construed to extend to any incorporated company if the lease be for the general benefit of such corporation or company.

34. MODIFICATIONS

This lease contains the entire agreement between the parties hereto, and no modification of this agreement, or waiver, or consent hereunder shall be valid unless the same be in writing, signed by the parties to be bound or by a duly authorized representative; and this provision shall apply to this clause as well as all other conditions of this lease.

35. DISCLAIMER

This lease is effective only insofar as the rights of the United States in the premises are concerned; and the Lessee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this lease does not eliminate the necessity of obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat.1151; 33 U.S.C. § 403), or Section 404 of the Clean Water Act (33 U.S.C. § 1344).

36. OTHER

a. This Lease replaces Department of the Army Lease No. DACW01-1-76-912 which will expire on October 4, 2011.

b. Prior to execution of this lease, Condition No. 8.b. was deleted, and Condition No. 36 was added and is hereby made a part of this lease.

IN WITNESS WHEREOF I have hereunto set my hand by authority/direction of the Secretary of the Army this _____ day of _____, 2011.

WILLIE L. PATTERSON, III, Ed.D
Chief, Real Estate Division
U.S. Army Engineer District, Mobile

Signed, sealed and delivered
In the presence of:

Unofficial Witness

NOTARY PUBLIC

My Commission Expires _____

[SEAL]

THIS LEASE is also executed by the Lessee this _____ day of _____, 2011.

CITY OF ATLANTA, GEORGIA

By:

Title:

Signed, sealed and delivered
In the presence of:

Unofficial Witness

NOTARY PUBLIC

My Commission Expires _____

[SEAL]

ALLATOONA LAKE
DESCRIPTION FOR LEASE TO
CITY OF ATLANTA, GEORGIA

All that tract or parcel of land lying and being in Land Lots 765, 816, 817, 818, 819, 820, 838, 839, 840, 841 and 891, Twenty-First Land District, Second Section, Cherokee County, Georgia, more particularly described as follows:

Commencing at the Southeast corner of said Land Lot 765;

Thence West along the South line of said Land Lot 765 a distance of 600.0 feet;

Thence N 20° 00' W 50 feet, more or less, to the contour at elevation 840 feet above Mean Sea Level and the POINT OF BEGINNING;

Thence S 20° 00' E 1,250 feet, more or less, to a point on said 840 foot contour;

Thence Southeasterly along the meanders of said 840 foot contour a distance of 540 feet, more or less, to the South line of said Land Lot 820;

Thence West along the South line of said Land Lot 820 a distance of 1,200 feet, more or less, to the Northeast corner of said Land Lot 838;

Thence South along the East line of said Land Lot 838 a distance of 800 feet, more or less, to the North right-of-way line of Georgia Highway 92;

Thence Southwesterly along the North right-of-way line of said Georgia Highway 92 a distance of 1,200.0 feet, more or less, to a point which is on the boundary of said United States tract, and on the West line of Land Lot 891;

Thence N 00° 42' E along the boundary of said United States tract 60 feet, more or less, to an iron marker stamped "839|838"
890|891", which is at the Northwest corner of said Land Lot 891;

Thence N 88° 59' W along the boundary of said United States tract a distance of 1,326.7 feet, to an iron marker stamped "840|839"
889|890 ;

Thence N 01° 22' E along the West line of said Land Lot 839 which is along the boundary of said United States tract 1313.3 feet to an iron marker stamped "817|818"
840|839", which is at the Northwest corner of said Land Lot 839 and at a corner of said United States tract;

Exhibit "A" to Lease No.
DACW01-1-11-0473

Thence N 88° 57' W along the boundary of said United States tract 691.0 feet to a concrete monument stamped "I01-39";

Thence S 01° 06' W along the boundary of said United States tract 329.5 feet to a concrete monument stamped "I01-40";

Thence N 89° 25' W along the boundary of said United States tract 656.1 feet to an iron marker stamped "I01-41";

Thence S 01° 10' W along the boundary of said United States tract 988.8 feet to an iron marker stamped "841|840", which is at the South-
west corner of said Land Lot 840; 888|889

Thence N 88° 51' W along the boundary of said United States tract 651.7 feet to an iron marker stamped "I01-42";

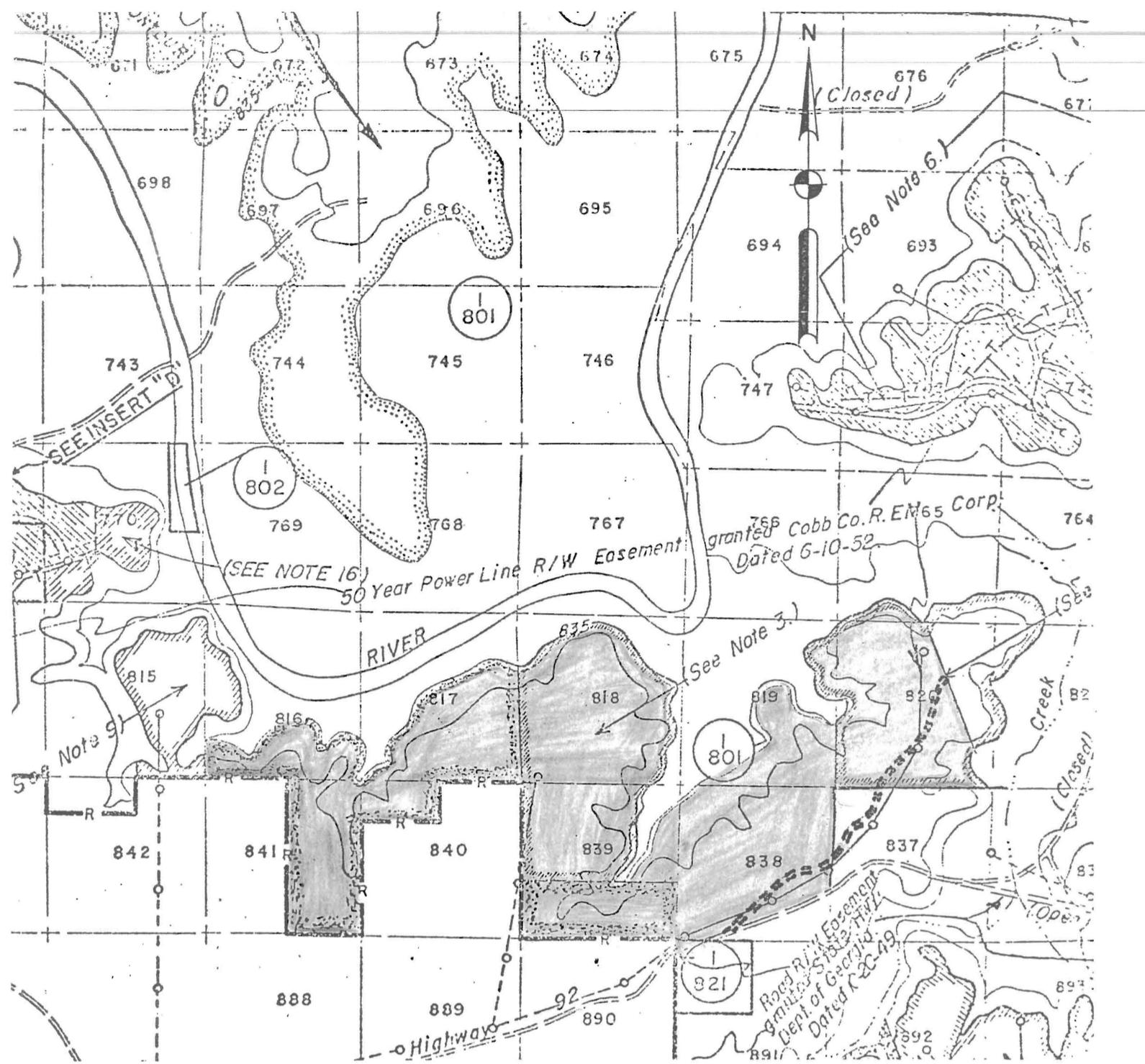
Thence N 00° 44' E along the boundary of said United States tract 1274.7 feet to an iron marker stamped "I01-43";

Thence N 88° 40' W along the boundary of said United States tract 747.3 feet to a concrete monument stamped "OH-5-1951" which is at the Southwest corner of Land Lot 816;

Thence North along the West line of said Land Lot 816 a distance of 270.0 feet, more or less, to the contour at elevation 840 feet above the Mean Sea Level;

Thence Northeasterly along the meanders of said 840 foot contour a distance of 13,000 feet, more or less, to the point of beginning.

Containing 209.0 acres, more or less, and being a part of Tract I-801 of the Allatoona Lake.



A PORTION OF SEGMENT "I"

ALLATOONA LAKE
 TWENTY-FIRST LAND DISTRICT SECOND SECTION
 CHEROKEE COUNTY, GEORGIA

Exhibit "B" to Lease No.
 DACW01-1-11-0473

SCALE 1" = 1200'