

WATER STORAGE AGREEMENT
BETWEEN THE DEPARTMENT OF THE ARMY
AND
THE ENVIRONMENTAL PROTECTION DIVISION OF THE GEORGIA DEPARTMENT OF THE
NATURAL RESOURCES ON BEHALF OF THE STATE OF GEORGIA
FOR
REALLOCATED WATER STORAGE SPACE IN LAKE LANIER, GEORGIA

THIS AGREEMENT (“Agreement”), entered into this 20th day of January, 2021, by and between THE DEPARTMENT OF THE ARMY (hereinafter called the “Government”) represented by the Chief of Engineers and Commanding General executing this Agreement, and THE STATE OF GEORGIA (hereinafter called the “State”), represented by the Director of the Environmental Protection Division of the Georgia Department of Natural Resources;

RECITALS:

WHEREAS, the Rivers and Harbors Act of 1946 (Public Law 79-525, 79th Congress), authorized the construction, operation, and maintenance of the Buford Dam/Lake Lanier Project (hereinafter called the “Project”) on the Chattahoochee River, Georgia, in the Apalachicola, Chattahoochee, and Flint River Basin (“ACF Basin”); and

WHEREAS, the State has requested that the Government provide for water supply withdrawals directly from the Project in the amount of 242 million gallons per day (mgd) to meet current and projected water supply demands through 2050; and

WHEREAS, the Government in the 2017 Record of Decision (ROD) for the updated Apalachicola-Chattahoochee-Flint (ACF) River Basin Master Water Control Manual and the Water Supply Storage Assessment determined that modifying the operation of Lake Lanier to include up to 254,170 acre-feet of storage for municipal and industrial water supply to accommodate withdrawals of 222 mgd, in addition to gross withdrawals of 20 mgd made or provided for under existing agreements with the Cities of Buford and Gainesville, as estimated in the ROD for purposes of this Agreement is technically feasible, is in accordance with environmental and other applicable statutes, will not involve major structural or operational changes, will not seriously affect the other purposes for which Lake Lanier was authorized, surveyed, planned, and constructed, and serves the overall public interest; and

WHEREAS, this Agreement is entered into pursuant to the Water Supply Act of 1958. The updated ACF Water Control Manual and individual reservoir water control plans prescribe the operations of the federal projects in the ACF Basin as a balanced and integrated system to meet all authorized project purposes, including the accommodation of current and projected water supply uses of Lake Lanier; and

WHEREAS, the United States and the City of Gainesville, Georgia (“Gainesville”) entered into an agreement dated the 22nd day of June 1953 (“the Gainesville Relocation Contract”) to compensate the City for property taken to construct the Project pursuant to which Gainesville was granted the right to remove up to 8,000,000 gallons of water per day (mgd) from the Project without payment to the Corps; and

WHEREAS, the United States and the City of Buford, Georgia (“Buford”) entered into an agreement dated the 19th day of December 1955 (“the Buford Relocation Contract”) to compensate Buford for property taken to construct the Project, pursuant to which Buford was granted the right to

remove up to 2,000,000 gallons of water per day without payment; and

WHEREAS, the State desires to provide for some local government entities (hereinafter called the “Water Supply Providers”) to use space in the Project to store water for municipal and industrial water supply, and to provide for payment of the cost thereof in accordance with the provisions of the Water Supply Act of 1958, as amended (43 U.S.C. 390b), as supplemented by the provisions of the Act of October 16, 1963 (43 U.S.C. 390c-f); and

WHEREAS, the use of such storage in the Project by such Water Supply Providers under any sub-agreement with the State related to this Agreement shall be supplemental to the uses made by Gainesville and Buford pursuant to the aforementioned Gainesville Relocation Contract and Buford Relocation Contract and neither the Gainesville Relocation Contract nor the Buford Relocation Contract shall be merged into this Agreement; and

WHEREAS, the State as shown in Exhibit “A,” attached to and made a part of this Agreement, is empowered to enter into an agreement with the Government and is vested with all necessary powers of accomplishment of the purposes of this Agreement.

NOW, THEREFORE, the Government and the State agree as follows:

ARTICLE 1 - Water Storage Space.

a. Project Modification. The Government, subject to the directions of Federal law and any limitations imposed thereby, shall modify the allocation of storage space in the Project so as to include therein space for the use of water supply storage by the State.

b. Rights of State.

(1). The State shall have the right to utilize an undivided portion of the conservation pool equal to 254,170 acre feet or 23.65 percent of the storage space between elevations 1035 feet and 1071 feet above National Geodetic Vertical Datum (NGVD), as described in Exhibit I, whichever volume is smaller as determined by the sediment surveys provided for in Article 1.e below. As of the date of execution of this Agreement, the State’s storage space constitutes 15.16 percent of the total usable storage space (flood control plus conservation storage) in the Project. The State shall have the right to withdraw water from the Project for municipal and industrial water supply, subject to the provisions of Article 1.c and to the extent the aforesaid storage space will provide.

(2). The availability of water in storage will be determined by the storage accounting procedures set forth in Exhibit D, which will be used unless and until they are changed (1) by mutual consent of the Government and the State, (2) as described below in Article 1.b.(2)ii, or (3) as required by law, regulation, or court order.

i. The parties acknowledge that similar procedures at Allatoona Lake are currently the subject of pending litigation and an ongoing storage reallocation study. *See Cobb County-Marietta Authority v. United States Army Corps of Engineers*, N.D. Ga. 17-400 (filed in 2017).

ii. In the event of (1) changes to the storage accounting principles employed at Allatoona Lake;

or (2) promulgation of a policy or rule governing water supply storage accounting at Corps reservoirs, the Government, at the State's request, shall evaluate the storage accounting procedures set forth in Exhibit D to determine whether Exhibit D shall be amended to be consistent with the new principles implemented at Allatoona Lake or adopted in a policy or rule subject to such further evaluation as may be required under the National Environmental Policy Act (NEPA) or any other federal law, and provided that any change is consistent with any applicable federal law, regulation, or court order in effect at the time of such change.

iii. The Government shall issue a Record of Decision implementing or declining to implement the changed accounting procedures described in parts (1) and (2) of this Article 1.b.(2)ii within three years from the date of the State's request, or otherwise as agreed to by the Government and the State. Should the Government decline to implement the changed accounting procedures described in parts (1) and (2) of this Article 1.b.(2)ii, the Record of Decision shall document the Government's decision including, in the case of part (1) any and all specific laws and/or material facts justifying different storage accounting principles at Allatoona Lake and Lake Lanier, and in the case of part (2), any specific legal or factual justification for not applying a promulgated policy or rule governing water supply storage accounting at Lake Lanier. The Government agrees that a failure to issue a Record of Decision within three years, or within any other timeline agreed to by the Government and the State, from the date of the event that necessitated the change shall constitute the culmination of its decision-making process, and shall be a final decision declining to implement a change to Exhibit D.

iv. In the event storage accounting is changed as described in Article 1.b.(2)ii, an adjustment to the storage allocation under Article 1.b.(1) may also be appropriate. Any such adjustment shall be considered by the Government in conjunction with its evaluation of any change to storage accounting and addressed in any National Environmental Policy Act documents relating to such change. If the storage allocation is adjusted in accordance with this paragraph, all past payments in excess of the payments that would have been required if the contracted volume had been equal to the adjusted volume will be considered to have been credited to the total contract obligation at the time the payments were made, and the amortization schedule will be adjusted accordingly.

v. While the Government and the State agree that the storage accounting outlined in Exhibit D is binding upon the parties for purposes of this Agreement unless and until it is changed, the State does not waive or concede any argument or claim regarding (1) whether the storage accounting as described in Exhibit D is appropriate; (2) the State's assertion of authority to allocate water within its boundaries; or (3) any right to challenge as a final agency action under the Administrative Procedure Act the Government's Record of Decision as described in Article 1.b.(2)iii for any reason. In addition, nothing in this Agreement shall be construed as evidence of the State's agreement with the storage accounting as described in Exhibit D for any purpose in any context except in an action to enforce this Agreement.

(3). As detailed in Article 9, the State intends to enter into subagreements with some or all of the Water Supply Providers providing for them to utilize the storage space made available to the State under this Agreement. Water Supply Providers entering into such subagreements will utilize the storage space made available to the State under this Agreement in accordance with the terms of this Agreement.

(4). The State shall have the right to construct all such works, plants, pipelines, and appurtenances as may be necessary and convenient for the purpose of diversion, withdrawals or returns, subject to the approval of the District Engineer as to design and location. The grant of an easement or easements for right-of-way, across, in and upon land of the Government at the Project shall be by a separate instrument or instruments in a form satisfactory to the Secretary of the Army, between the State or each Water Supply Provider and the Government, under the authority of and in accordance with the

provisions of 10 U.S.C. 2668 and such other authorities as may be necessary. Such easements shall be conditioned on the continued viability of this Agreement and material compliance with all terms of this Agreement. Subject to the conditions of such easements, the State shall have the right to use so much of the Project land as may reasonably be required in the exercise of the rights and privileges granted to the State under this Agreement, and the Water Supply Providers shall have the right to use so much of the Project land as may reasonably be required in the exercise of the subagreement that the Water Supply Provider entered into with the State pursuant to paragraph (3) above, including the right to construct all such works, plants, pipelines, and appurtenances as may be necessary and convenient for the purpose of diversion, withdrawals or returns.

c. Rights Reserved. Except as provided herein, the Government reserves the right to control and use all storage in the Project in accordance with authorized Project purposes. The Government further reserves the right to take such measures as may be necessary in the operation of the Project to preserve life and/or property, including the right not to make downstream releases during such periods of time as are deemed necessary, in its sole discretion, to inspect, maintain, or repair the Project.

d. Quality or Availability of Water. The State recognizes that this Agreement provides for the use of storage space for raw water withdrawals only. Although the storage space is estimated to provide a dependable yield sufficient to meet the requested need, the Government makes no guarantees with respect to the quality or availability of water and assumes no responsibility therefor, or for the treatment of the water.

e. Sedimentation Surveys.

(1). Sedimentation surveys will be made by the District Engineer during the term of this Agreement at intervals not to exceed fifteen years unless the District Engineer determines that such surveys are unnecessary. When, in the opinion of the District Engineer, the findings of such survey indicate any Project purpose will be affected by unanticipated sedimentation distribution, there shall be an equitable redistribution of the sediment reserve storage space among the purposes served by the Project including municipal and industrial water supply, recognizing that the Project will continue to be regulated to reduce flooding downstream from the dam. An adjusted pool elevation storage curve will be developed, and storage values corresponding to every half foot of elevation (within the usable storage pool) will be updated. Such findings and the storage space allocated to municipal and industrial water supply, as well as any adjustments to the estimated yield of the storage, shall be defined and described as an exhibit, which will be made a part of this Agreement, and the water control manual will be modified accordingly.

(2). The Government assumes no responsibility for deviations from estimated rates of sedimentation, or the distribution thereof. Such deviations may cause unequal distribution of sediment reserve storage greater than estimated, and/or encroachment on the total storage at the Project.

ARTICLE 2 - Regulation of and Right to Use of Water. The regulation of the use of water withdrawn from the aforesaid storage space shall be the sole responsibility of the State. The State has the full responsibility, in accordance with the laws and regulations of the State of Georgia, to establish or defend, any and all water rights needed for utilization of the storage provided under this Agreement. The Government shall not be responsible for diversions by others, nor will it become a party to any controversies involving the use of the storage space by the State except as such controversies may affect the operations of the Project by the Government.

ARTICLE 3 - Operation and Maintenance. The Government shall operate and maintain the Project and the State shall pay to the Government a share of the costs of such operation and maintenance as provided in Article 5c. The State shall be responsible, and agrees to hold each Water Supply Provider responsible, for operation and maintenance of all installations and facilities which it or a Water Supply Provider pursuant to a subagreement may construct for the diversion or withdrawal or release of water, and the State or each Water Supply Provider shall bear all costs of construction, operation, and maintenance of such installations and facilities.

ARTICLE 4 - Measurement of Withdrawals. The State agrees to require each Water Supply Provider to furnish, install, and maintain, without cost to the Government, suitable meters or measuring devices satisfactory to the District Engineer for the measurement of water which is withdrawn from the Project by any means other than through the Project outlet works. The State agrees to require each Water Supply Provider to furnish to the Government a total daily withdrawal amount on a daily time-step. The Government agrees that all meters and measuring devices currently in use by the Water Supply Providers as described in Exhibit H are satisfactory to the District Engineer as of the date of execution of this Agreement. Prior to the construction or modification of any facilities for withdrawal of water from the Project, the State will require each Water Supply Provider to obtain the District Engineer's approval of the design, location and installation of the facilities including the meters or measuring devices. Such devices shall be available for inspection by Government representatives at all reasonable times.

ARTICLE 5 - Payments. In consideration of the right to utilize the aforesaid storage space in the Project for municipal and industrial water supply purposes, the State shall pay the following sums to the Government:

a. First Cost of Storage.

(1). The State shall repay to the Government, at the times as hereinafter specified, the amounts stated below which, as shown in Exhibit B-II attached to and made a part of this Agreement, constitute the entire actual amount of the first cost of storage allocated to the water storage usage right acquired by the State under this Agreement. The amount of the cost is based on updated cost of storage. The costs shown in Exhibit B are attributable to 254,170 acre-feet of storage space. The interest rate to be used for purposes of computing interest on the unpaid balance will be the yield rate adjusted at five-year intervals as determined by the Secretary of the Treasury on the basis set forth in 43 U.S.C. 390b (as amended by Section 932 of the 1986 Water Resources Development Act). For this Agreement, the starting interest rate shall be that rate in effect at the time the reallocation is approved. For FY 2021, such rate was 1.75 percent.

(2). The cost allocated to the storage space indicated in Article 1b(1) is currently estimated at a total contract obligation of \$71,290,531 on the basis of the costs presented in Exhibit B-II. These costs shall be repaid within the life of the Project over a period not to exceed 30 years from the date this Agreement is executed by the Secretary of the Army or his duly authorized representative. The payments shall be in equal consecutive annual installments, adjusted at 5-year intervals as shown in Exhibit "C". The first payment shall be due and payable within 90 days after the State is notified by the District Engineer that this Agreement is executed. Annual installments thereafter will be due and payable on the anniversary date of the date of notification. Except for the first payment, which will be applied solely to the principal portion of the total contract obligation, all installments shall include accrued interest on the unpaid balance at the rate provided above. The last annual installment shall be adjusted upward or downward when due to assure repayment of all of the first cost of storage allocated to the storage within 30 years from the above date.

b. Repair, Rehabilitation, and Replacement (RR&R) Costs. The State will be required to pay 100.0 percent of the cost of any RR&R of specific water supply facilities. In addition, the State will be required to pay a percentage of the cost of joint-use RR&R of Project features equal to the percentage of total usable storage space allocated to water supply under Article 1.b. Payment of these costs shall be made either incrementally during construction or in lump sum (including interest during construction upon completion of construction), unless otherwise agreed to by the State and the Government.

c. Annual Operation and Maintenance (O&M) Expense.

The State will be required to pay 100.0 percent of the annual O&M expense of specific water supply facilities. In addition, the State will be required to pay a percentage of the annual experienced joint-use O&M expense of the Project equal to the percentage of total usable storage space allocated to water supply under Article 1.b.

The first payment for O&M expense shall encompass the portion of the Government fiscal year subsequent to the effective date of this Agreement and shall be due and payable on the second date for payment of the cost of storage as set forth in Article 5a(2). Subsequent payments for O&M expense for the Government fiscal year most recently ended shall be due and payable on the anniversary date of the first payment. The amount of each annual payment shall be the actual incurred O&M expense (specific plus allocated joint-use), or when actual expense information is not available an estimate thereof, based upon the O&M expense for the prior Government fiscal year.

d. Prepayment. The State shall have the right at any time to prepay the obligation under this Article in whole or in part, with accrued interest thereon to the date of such prepayment.

e. Source of Payment. Nothing herein shall require the State to utilize any specific source of payment for the obligations in this Agreement or preclude the State from collecting amounts from the Water Supply Providers.

f. Delinquent Payments. Any delinquent payment owed by the State shall be charged interest at the Current Value of Funds Rate, as determined by the Secretary of the Treasury that is applicable on the date that the payment became delinquent, with such penalty charge and administrative fee as may be required by Federal law or regulation. This provision shall not be construed as giving the State a choice of either making payments when due or paying interest, nor shall it be construed as waiving any other rights of the Government, at law or in equity, which might result from any default by the State.

g. Dispute Resolution. In the event of any dispute, claim, question, or disagreement arising from or relating to fees, costs, or expenses under this Article 5, the State and the Government shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, the State and the Government shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

ARTICLE 6- Duration of Agreement. This Agreement shall become effective when signed by the Secretary of the Army or his duly authorized representative and shall continue in full force and effect for the life of the Project, except as provided in Article 7.

ARTICLE 7 - Permanent Rights to Storage. Upon completion of payments by the State, as provided in Article 5a herein, the State shall have a permanent right, under the provisions of the Act of 16 October

1963 (Public Law 88-140, 43 U.S.C. 390e), to the use of the water supply storage space in the Project as provided in Article 1, subject to the following:

a. Continued material compliance by the State with all terms of this Agreement, including the limitations on use of storage provided for in Articles 1.b and 1.c.

b. The State shall continue payment of annual O&M expenses as provided in Article 5.c of this Agreement.

c. The State shall be required to pay any RR&R Costs as provided in Article 5.b of this Agreement. The District Engineer will establish such costs and repayment arrangements shall be in writing in accordance with the terms and conditions set forth in Article 5.b for reconstruction, rehabilitation, and replacement costs, and be made a part of this Agreement.

d. Upon completion of payments by the State as provided in Article 5.a, the District Engineer shall redetermine the storage space for municipal and industrial water supply in accordance with the provisions of Articles 1.b.(1) and 1.e. Such redetermination of reservoir storage capacity may be further adjusted from time to time as the result of sedimentation resurveys to reflect actual rates of sedimentation and the exhibit revised to show the revised storage space allocated to municipal and industrial water supply.

e. The permanent rights of the State under this Agreement shall be continued so long as the Government continues to operate the Project, unless the State requests termination of this Agreement. If the State's request is agreeable to the Government, such agreement not to be unreasonably withheld, delayed, or conditioned, the parties shall provide for the orderly termination of this Agreement through execution of a Supplemental Agreement for this purpose. The Supplemental Agreement shall include provisions for: (i) the conduct of a final accounting of the financial obligations of the State under Article 5 of this Agreement, and the payment of all outstanding financial obligations by the State; and (ii) the termination of any easement granted by the Government under Article 1.b.(2) of this Agreement in accordance with the terms of such easement. The Supplemental Agreement must be approved prior to execution by the District Engineer and the State.

f. In the event the Government no longer operates the Project, such rights may be continued subject to the execution of a separate agreement or additional supplemental agreement providing for:

(1). Continued operation by the State of such part of the facility as is necessary for utilization of the water supply storage space allocated to it;

(2). Terms which will protect the public interest; and,

(3). Effective and complete release of the Government by the State from all liability in connection with such continued operation.

ARTICLE 8 - Release of Claims. The State shall hold and save the Government, including its officers, agents and employees harmless from liability of any nature or kind for or on account of any claim for damages which may be filed or asserted as a result of the storage in the Project, or withdrawal or release of water from the Project, made or ordered by the State or any Water Supply Provider under a subagreement with the State, or as a result of the construction, operation, or maintenance of the water supply facilities and appurtenances thereto owned and operated by the State or any Water Supply Provider under a subagreement with the State, except for damages due to the fault or negligence of the

Government or its contractors.

ARTICLE 9. – Subagreements, Transfers, and Assignments. The Government acknowledges that the State intends to enter into subagreements with the Water Supply Providers, subject to approval by the Assistant Secretary of the Army for Civil Works. The State shall not otherwise transfer or assign this Agreement, nor any rights acquired under this Agreement, nor suballot said water supply storage space or any part thereof, nor grant any interest, privilege, or license whatsoever in connection with this Agreement, without the express written approval of the Secretary of the Army, or his or her duly authorized representative provided that, unless contrary to the public interest, this restriction shall not be construed to apply to any water that may be obtained from the water supply storage space by the State and furnished to any third party or parties, nor any method of allocation thereof.

ARTICLE 10 - Officials Not to Benefit. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

ARTICLE 11 - Covenant Against Contingent Fees. The State warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement 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 State for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this Agreement without liability or in its discretion to add to the price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 12 - Environmental Quality. During any construction, operation, and maintenance by the Water Supply Providers or the State of any facilities, the State agrees to require the Water Supply Providers to take specific actions to control environmental pollution which could result from such activity and to comply with applicable Federal, State of Georgia, and local laws and regulations concerning environmental pollution. Particular attention should be given to:

- a. Reduction of air pollution by control of burning, minimization of dust, containment of chemical vapors, and control of engine exhaust gases, and of smoke from temporary heaters;
- b. Reduction of water pollution by control of sanitary facilities, storage of fuels and other contaminants, and control of turbidity and siltation from erosion;
- c. Minimization of noise levels;
- d. On-site and off-site disposal of waste and spoil; and,
- e. Prevention of landscape defacement and damage.

ARTICLE 13 - Federal and State Laws.

a. Compliance. In acting under its rights and obligations hereunder, the State agrees to comply with all applicable Federal and State laws and regulations, including but not limited to: 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.), the Copeland Anti-Kickback Act (formerly 40

U.S.C. 276c)), and the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655).

b. Civil Rights Act. The State furnishes, as part of this Agreement, an assurance (Exhibit D) that it will comply with Title VI of the Civil Rights Act of 1964 (78 Stat. 241, 42 U.S.C. 2000d, et seq.) and Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 195 of Title 32, Code of Federal Regulations.

c. Regulatory Program. Any discharges of water or pollutants into a navigable stream or tributary thereof resulting from the State's facilities and operations undertaken under this Agreement, or any Water Supply Provider's facilities and operations undertaken under a subagreement with the State, shall be performed only in accordance with applicable Federal, State of Georgia, and local laws and regulations.

d. Lobbying Activities. The State furnishes, as part of this Agreement, a certification (Exhibit E and if applicable, Standard Form-LLL "Disclosure of Lobbying Activities") that it will comply with Title 31 U.S.C. Section 1352 of the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions (Public Law 101-121, October 23, 1989) and Federal Acquisition Regulation 52.203-12 issued pursuant thereto.

ARTICLE 14 – Storage Exceedances. In the event that the balance of the State's storage account as defined in Article 1.b(1) falls below zero, the Government will notify the State of this fact and direct the State to immediately take measures to ensure compliance with this Agreement. For any exceedances occurring after such notice, the State shall pay a charge in an amount equal to the updated cost of storage space per acre foot per day with the total federal investment cost being amortized over a 30 year period as provided in this contract, multiplied by the maximum number of acre feet of storage space used in excess of the contract, multiplied by the number of days the exceedances occur. These damages are intended to compensate for the loss to the Government of the cost of the storage space required to service the State's exceedances. This provision shall not be construed as authorizing any exceedances.

ARTICLE 15 – Incorporation of Recitals. The Recitals set forth above are hereby incorporated into and made a part of this Agreement.

ARTICLE 16 - Definitions.

a. First cost of storage. This is the cost assigned to the State's right to the use of storage space in the project. In this Agreement, the first cost of storage was developed by the updated cost of storage method and is summarized in Exhibit B-II.

b. Interest on the unpaid balance. When the Project cost is amortized, this is the interest on the unpaid balance (see Exhibit C). When payments are made in "lump sum," there is no amortization schedule and therefore, no "interest on the unpaid balance."

c. Specific costs. The costs of Project features normally serving only one particular Project purpose.

d. Joint-use costs. The costs of features used for water supply and at least one other Project purpose.

e. Annual operation and maintenance (O&M) expense. Annual expenses funded under the

O&M, General account. These expenses include the day-to-day costs to operate and maintain the Project as well as O&M costs which are not capitalized. The O&M items include but are not limited to periodic inspection programs, mowing of saddle dikes and maintenance of the project office.

f. Repair, rehabilitation and replacement (RR&R) costs. Such expenditures are for costly, infrequent work and are intended to ensure continued satisfactory operation of the Project. The RR&R items include but are not limited to repair of dam safety issues and repair or replacement of flow control devices such as sluice gates. For the purposes of this Agreement the term "reconstruction" used in Article 7 "Permanent Rights to Storage" shall be included in this definition of repair, rehabilitation and replacement; repayment of those costs shall be the same as described in Article 5b.

g. Fiscal Year. Refers to the Government's fiscal year. This year begins on 1 October and ends on 30 September.

h. Life of the Project. This is the physical life of the Project.

i. District Engineer. Refers to the District Engineer of the Mobile District of the United States Army Corps of Engineers, or his/her successor or designee.

j. Water Supply Providers. The term "Water Supply Providers" shall mean the entities identified in Exhibit G or a water supply provider who plans to withdraw from Lake Lanier in the future and has entered into a subagreement with the State to accept the responsibilities as specified in this Agreement.

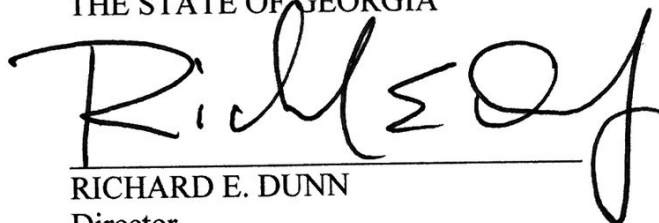
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

THE DEPARTMENT OF THE ARMY

SEBASTIAN P. JOLY
Colonel, U.S. Army
Commander, Mobile District
U.S. Army Corps of Engineers

DATE: _____

THE STATE OF GEORGIA



RICHARD E. DUNN
Director
Environmental Protection Division
Georgia Department of Natural Resources

DATE: 1/7/21

EXHIBIT A: CERTIFICATIONS

I, Christopher M. Carr (name), Attorney for the State of Georgia, have reviewed the foregoing agreement executed by the State of Georgia, and as principal legal officer of/for the State of Georgia certify that the State of Georgia is legally capable of entering into the contractual obligations contained in the foregoing agreement and that, upon acceptance by the Department of the Army, it will be legally enforceable.

Given under my hand, this 12 day of January 2021.



I, Kelly Farr (name), Director of the Governor's Office of Planning and Budget (title), have reviewed the foregoing agreement executed by the State of Georgia, and as principal financial officer of/for the State of Georgia certify that the State of Georgia is financially capable of entering into the contractual obligations contained in the foregoing agreement which, upon acceptance by the Department of the Army, will be legally enforceable.

Given under my hand, this _____ day of _____ 20 ____.

EXHIBIT A: CERTIFICATIONS

I, Christopher M. Carr (name), Attorney for the State of Georgia, have reviewed the foregoing agreement executed by the State of Georgia, and as principal legal officer of/for the State of Georgia certify that the State of Georgia is legally capable of entering into the contractual obligations contained in the foregoing agreement and that, upon acceptance by the Department of the Army, it will be legally enforceable.

Given under my hand, this _____ day of _____ 20 ____.

I, Kelly Farr (name), Director of the Governor's Office of Planning and Budget (title), have reviewed the foregoing agreement executed by the State of Georgia, and as principal financial officer of/for the State of Georgia certify that the State of Georgia is financially capable of entering into the contractual obligations contained in the foregoing agreement which, upon acceptance by the Department of the Army, will be legally enforceable.

Given under my hand, this 12th day of January 20 21.

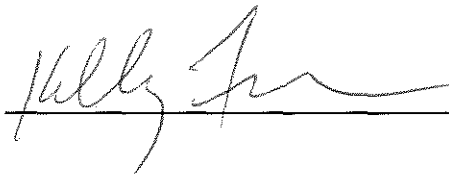


EXHIBIT B: COST COMPUTATIONS

I - LAKE STORAGE

Feature (1)	Elevation (feet, NGVD) (2)		Usable Storage (acre-feet) <u>1/</u> (3)	Percent of	
				Usable Storage <u>2/</u> (4)	Conservation Storage <u>3/</u> (5)
Flood Control	1,085	1,071	602,151	35.91	
Conservation	1,071	1,035	1,074,645	64.09	100.00
Water Supply			254,170	15.16	23.65
Other Conservation Purposes			820,475	48.93	76.35
Total Usable Storage			1,676,796	100.00	

Notes:

1/ Current estimated volumes; subject to change due to sedimentation and does not include inactive storage.

2/ Used to compute the State's cost (see Exhibits B-II and B-III).

3/ The ratio (percentage) of water supply storage to conservation storage is equivalent to the ratio (percentage) of the State's projected need to the critical yield, which is used to compute the State's storage space (see Article 1.b(1) and Exhibit D).

II - FIRST COST TO BE REPAID BY THE STATE FOR THE REALLOCATED STORAGE SPACE

The amount to be repaid by the State for the first cost of the reallocated storage was calculated using the updated cost of storage method using the "Use of Facilities" cost allocation procedure (see U.S. Army Corps of Engineers, Mobile District, Final Environmental Impact Statement, Update of the Water Control Manual for the Apalachicola-Chattahoochee-Flint River Basin in Alabama, Florida, and Georgia, Vol. 3, Appendix B, Water Supply Storage Assessment § 5.2) Updated Cost of Storage in October 2020. EM1110-2-1304

- Total updated cost of storage in the Project: \$470,315,000
- Cost of 254,170 acre-feet of water supply storage: \$71,290,532
(15.16% x \$470,315,000) = \$71,290,532

III – TOTAL ANNUAL COST TO STATE
FOR THE REALLOCATED WATER SUPPLY STORAGE

Item	Type of Use	Computation	Cost
Interest and amortization	Total cost of storage space acquired by the State as determined in Exhibit B-II.	\$71,290,531 x .04239 factor based on 30 payments, of which 29 payments are at interest rate of 1.75%.	\$ 3,021,860
Operation and maintenance <u>1/</u>	Joint-use (estimated <u>2/</u>)	15.16 % <u>2/</u> x \$ 3,110,191	\$ 471,444
	Specific water supply facilities	100% x \$0	\$ 0
Repair, rehabilitation and replacement <u>3/</u>	Joint-use	15.16 % <u>2/</u> x \$ _____	\$
	[Specific water supply facilities	100% x \$0	\$ 0

Notes:

1/ Payment due and payable on the date specified in Article 5(a)(2).

2/ Percent of State's share of the usable storage space in the project (column (4) of exhibit B-I).

3/ Repair, rehabilitation and replacement costs are payable only when incurred as specified in Article 5(b).

EXHIBIT C: AMORTIZATION SCHEDULE PRESENT DEMAND

TOTAL COST: \$71,290,531
 NUMBER OF PAYMENTS: 30
 INTEREST RATE, PERCENT 2/ 1.75%

Annual Payment Number	Amount of Payment (\$)	Interest (\$)	Allocated Cost (\$)	Balance of Allocated Cost (\$)
1	\$3,021,860.60	\$0.00	\$3,021,860.60	\$68,268,671.10
2	\$3,021,860.60	\$1,194,701.74	\$1,827,158.86	\$66,441,512.24
3	\$3,021,860.60	\$1,162,726.46	\$1,859,134.14	\$64,582,378.11
4	\$3,021,860.60	\$1,130,191.62	\$1,891,668.98	\$62,690,709.12
5	\$3,021,860.60	\$1,097,087.41	\$1,924,773.19	\$60,765,935.93
6	\$3,021,860.60	\$1,063,403.88	\$1,958,456.72	\$58,807,479.21
7	\$3,021,860.60	\$1,029,130.89	\$1,992,729.71	\$56,814,749.50
8	\$3,021,860.60	\$994,258.12	\$2,027,602.48	\$54,787,147.01
9	\$3,021,860.60	\$958,775.07	\$2,063,085.53	\$52,724,061.49
10	\$3,021,860.60	\$922,671.08	\$2,099,189.52	\$50,624,871.96
11	\$3,021,860.60	\$885,935.26	\$2,135,925.34	\$48,488,946.62
12	\$3,021,860.60	\$848,556.57	\$2,173,304.03	\$46,315,642.59
13	\$3,021,860.60	\$810,523.75	\$2,211,336.85	\$44,104,305.73
14	\$3,021,860.60	\$771,825.35	\$2,250,035.25	\$41,854,270.48
15	\$3,021,860.60	\$732,449.73	\$2,289,410.87	\$39,564,859.62
16	\$3,021,860.60	\$692,385.04	\$2,329,475.56	\$37,235,384.06
17	\$3,021,860.60	\$651,619.22	\$2,370,241.38	\$34,865,142.68
18	\$3,021,860.60	\$610,140.00	\$2,411,720.60	\$32,453,422.08
19	\$3,021,860.60	\$567,934.89	\$2,453,925.71	\$29,999,496.36
20	\$3,021,860.60	\$524,991.19	\$2,496,869.41	\$27,502,626.95
21	\$3,021,860.60	\$481,295.97	\$2,540,564.63	\$24,962,062.32
22	\$3,021,860.60	\$436,836.09	\$2,585,024.51	\$22,377,037.81
23	\$3,021,860.60	\$391,598.16	\$2,630,262.44	\$19,746,775.37
24	\$3,021,860.60	\$345,568.57	\$2,676,292.03	\$17,070,483.34
25	\$3,021,860.60	\$298,733.46	\$2,723,127.14	\$14,347,356.20
26	\$3,021,860.60	\$251,078.73	\$2,770,781.87	\$11,576,574.34
27	\$3,021,860.60	\$202,590.05	\$2,819,270.55	\$8,757,303.79
28	\$3,021,860.60	\$153,252.82	\$2,868,607.78	\$5,888,696.00
29	\$3,021,860.60	\$103,052.18	\$2,918,808.42	\$2,969,887.58
30	\$3,021,860.62	\$51,973.03	\$2,969,887.59	\$0.00

Notes:

1/ An amortization schedule is applicable to those projects which will be repaid over time in lieu of during construction.

2/ In accordance with Section 932 of the Water Resources Development Act of 1986, this interest rate will be adjusted at five year intervals throughout the repayment period. The rate is the yield rate as determined by the Secretary of the Treasury plus $1/8$ %.

3/ The last payment will be adjusted upward or downward to assure all costs are repaid within 30 years of approval of the agreement.

EXHIBIT D: STORAGE ACCOUNTING

The Mobile District employs storage accounting to determine the volume of water held in the storage space allocated to each user. As described below, storage accounting tracks multiple storage accounts, crediting each account with a proportion of inflows and losses (e.g. evaporation), and also debiting direct withdrawals by specific users to the user's account. The amount of water that may actually be withdrawn is ultimately dependent on the amount of water available in the user's storage space, which will naturally change over time.

The necessary data to determine the volume of water held in storage for water supply is received daily, with computations performed weekly during normal conditions, and daily under extreme drought conditions. This accounting is especially critical during drought, when less water is available in storage allocated to water supply and additional conservation measures or alternative sources may be necessary.

The formula used to calculate the volume water available in the water supply account each day is shown below:

$$S_{e-s} = S_{b-s} + I_s - W_s$$

Where:

S_{e-s} = State period ending volume of water in storage

S_{b-s} = State period beginning volume of water in storage

I_s = State's share of Adjusted Inflow

W_s = State's water withdrawal

The State's beginning storage volume and withdrawals from the State's storage space are known, while the State's share of Adjusted Inflow must be calculated from other known values.

Adjusted Inflow is calculated at dams within the Mobile District COE, hourly by the following formula:

1. $I = \Delta S_r + D + W_T$

Where:

I = Adjusted Inflow

ΔS_r = Period Ending Volume of Water in Reservoir Conservation Storage – Period Beginning Volume of Water in Reservoir Conservation Storage

D = Total Discharge from Dam (powerhouse + leakage + spill + sluice)

W_T = Total State water withdrawal

The change in the volume of water held in storage is determined directly from the actual pool elevation and thus considered observed values. Discharge is considered an observed value also because it is determined using spillway, sluice or turbine rating curves and the actual pool elevation. Using this method means the effects of precipitation, losses, water withdrawals, turbine releases, and any other variables that affect the volume of water in the reservoir are combined within the calculated inflow value. Losses are the sum of reductions in the volume of water held in storage due to factors such as evaporation and leakage. Adjusted Inflow as calculated in equation 1 reflects the losses from evaporation and leakage as well as withdrawals. The State shares a portion of the Adjusted Inflow after evaporation and leakages have occurred.

For purposes of this Agreement, a user's share of the Adjusted Inflow is defined by the percentage of conservation storage at full summer pool specified in the contract. This percentage is fixed throughout the year. In terms of a formula this means the following:

$$2. I_s = [S_{t-s} / S_{t-r}] * I$$

Where:

I_s = State's share of Adjusted Inflow

S_{t-s} = State's total storage space contracted

S_{t-r} = Reservoir total conservation storage at summer level

I = Adjusted Inflow

The conservation pool is drawn down as water usage exceeds inflow. The individual accounts are drawn down at different rates based on their usage. Users will be notified on a weekly basis of the available storage remaining, once their storage account balance drops below 30%.

The storage accounting described above may be modified as described in Article 1.b(2) of this Agreement.

EXHIBIT E: ASSURANCE OF COMPLIANCE

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF DEFENSE DIRECTIVE UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE AGE DISCRIMINATION ACT OF 1975; AND THE REHABILITATION ACT OF 1973, AS AMENDED

The party executing this assurance, being the applicant recipient of Federal financial assistance under the instrument to which this assurance is attached; HEREBY AGREES THAT, as a part of its obligations under the aforesaid instrument, it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part195), issued as Department of Defense Directive 5500.11, pursuant to that title; The Age Discrimination Act of 1975 (42 U.S.C. 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), to the end that in accordance with the aforementioned Title, Directive and Acts, no person in the United States shall on the ground of race, color, age, sex, religion, handicap or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives Federal financial assistance from the Department of the Army and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any personal property or real property, or interest therein, or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant-recipient by the Department of the Army, or if such assistance is in the form of personal property or real property, or interest therein or structure thereon, then this assurance shall obligate the applicant-recipient or in the case of any transfer of such property, any transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for the period during which it retains ownership or possession of the property whichever is longer. In all other cases, this assurance shall obligate the applicant-recipient for the period during which the Federal financial assistance is extended to it by the Department of the Army. The Department of the Army representatives will be allowed to visit the recipient's facilities. They will inspect the facilities to ensure that there are no barriers to impede the handicap's accessibility in either programs or activities

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the applicant-recipient by the Department of the Army, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The applicant-recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the applicant-recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this

assurance on behalf of the applicant.

Date 1/15/21

Marko K. Smith

EXHIBIT F: CERTIFICATION REGARDING LOBBYING

Buford Dam/Lake Lanier
State of Georgia

1. The undersigned certifies, to the best of their knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the water supply agreement for the State of Georgia, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions. This form is available at <http://contacts.gsa.gov/webforms.nsf>

c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Date 1/12/21

Kelly F

EXHIBIT G: WATER SUPPLY PROVIDERS

The City of Buford
The City of Cumming
The City of Gainesville
Forsyth County
Gwinnett County

EXHIBIT H: METERING AND MEASURING DEVICES FOR WATER SUPPLY INTAKES

The following meters and measuring devices are in use as of the date of execution of this Agreement. Changes to any of these devices must comply with the notification and measurement requirements of Article 4 of this Agreement.

	LOCATION	TYPE	MANUFACTURER	MODEL/STYLE
CITY OF BUFORD 3370 North Waterworks Road Buford, GA 30518	Raw Water Meter Vault	Venturi Meter	Badger	Lo Loss/PMT
	Finished Water Meter Vault	Differential Pressure Transducer	Rosemount	3051CD2A22AS5B4M5L4
CITY OF CUMMING Magnolia Avenue, Cumming, GA 30041	Wet Well	Magnetoflow	Badger	Primo
	Wet Well	Magnetoflow	Badger	Primo
	Wet Well	Magnetoflow	Badger	Primo
	Wet Well	Magnetoflow	Badger	Primo Advanced
	Wet Well	Electromagnetic Flow Meter	Badger	M-Series M-2000
CITY OF GAINESVILLE				
Riverside -- Crepe Myrtle Lane, Gainesville, GA	24" Raw Water Vault	Magnetic Flow Meter	Krohne	Enviromag 2000
	36" Raw Water Vault	Magnetic Flow Meter	Krohne	Optiflux 2000
	North Primary Settling Basin	Ultrasonic Level Indicator	Milltronics	OMC III
	South Primary Settling Basin	Ultrasonic Level Indicator	Milltronics	OMC III
Lakeside --5640 Jim Crowe Road, Flowery Branch, GA	42" Raw Water Line	Electromagnetic Flow Sensor	Krohne	Optiflux 2000
	42" Raw Water Line	Electromagnetic Flow Sensor	Krohne	Optiflux 2000
	Sedimentation Basin	Ultrasonic level indicator	Endress Hauser	Prosonic
GWINNETT COUNTY				
Lanier Filter Plant --6279 Woodlake Drive, Buford, GA	Withdrawal Pump Station	Insertion	Micrometer	FPI 78"
Shoal Creek Filter Plant --1755 Buford Dam Road, Buford, GA	Withdrawal Pump Station	Electromagnetic Flow Meter	Krohne	54" full bore
	Withdrawal Pump Station	Electromagnetic Flow Meter	Krohne	54" full bore

EXHIBIT I: Estimated Critical Yield Calculation

This Agreement includes an amount of storage space that is expected to provide a firm yield (or critical yield), during a drought equal to the most severe drought on record (1984-1989) to meet the requested need. For this agreement, the Corps utilized a critical yield figure of 938 million gallons per day (mgd), or 1452 cubic feet per second (cfs), based on the Federal Storage Reservoir Critical Yield Analysis (April 2015) and the 1984-1989 drought. See *U.S. Army Corps of Engineers, Mobile District, Final Environmental Impact Statement, Update of the Water Control Manual for the Apalachicola-Chattahoochee-Flint River Basin in Alabama, Florida, and Georgia*, Vol. 5, App. F at 4, 11-12 & Table 5. Because the projected need for 222 mgd comprises 23.65 percent of the estimated critical yield of 938 mgd, the Corps has reallocated 23.65 percent of conservation storage. The parties acknowledge that the actual yield at most times will be different from the estimated critical yield stated above.