

**APPENDIX H**  
**DRAFT WATER SUPPLY AGREEMENT**

WATER STORAGE AGREEMENT  
BETWEEN THE UNITED STATES OF AMERICA  
AND  
City of Henderson, North Carolina

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FOR  
REALLOCATED STORAGE SPACE IN John H. Kerr Reservoir

THIS AGREEMENT, entered into this \_\_\_ day of \_\_\_\_ 2005, by and between THE UNITED STATES OF AMERICA (hereinafter called the "Government") represented by the District Engineer executing this agreement, and the City of Henderson, North Carolina (hereinafter called the "User");

WITNESSETH THAT:

WHEREAS, pursuant to Public Law 534, 78<sup>th</sup> Congress, 2<sup>nd</sup> Session, approved December 22, 1944, the Government authorized the construction, operation, and maintenance of the John H. Kerr Reservoir Project on the Roanoke River, in North Carolina and Virginia, hereinafter called the "Project"; and

WHEREAS, the User desires to enter into an agreement with the Government for the use of storage added to the Project by reallocation for municipal and industrial water supply, and 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-f); and

WHEREAS, the User 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 [including those required by Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5d) (as amended)].

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

ARTICLE 1 - Water Storage Space.

a. Project Construction. The Government, subject to the directions of Federal law and any limitations imposed thereby, shall modify the Project so as to include therein space for the storage of water by the User.

b. Rights of User.

(1). The User shall have the right to utilize an undivided 1.050 percent (estimated to contain 10,292 acre-feet after adjustment for sediment deposits) of the usable conservation storage space in the Project (see column (5) of Exhibit B-1) between elevations 268 feet and 300 feet above National Geodetic Vertical Datum, which is estimated to contain 980,054 acre-feet after adjustment for sediment deposits. This storage space is to be used to impound water for present demand or need for municipal and industrial water supply.

(2). The User shall have the right to withdraw water from the reservoir, subject to the provisions of Article 1c and to the extent the aforesaid storage space will provide; and shall have the right to construct all such works, plants, pipelines, and appurtenances as may be necessary and convenient for the purpose of diversion or withdrawals, subject to the approval of the District Engineer as to design and location. The grant of an easement for right-of-way, across, in and upon land of the Government at the Project shall be by a separate instrument in a form satisfactory to the Secretary of the Army, in accordance with ER 405-1-12, under the authority of and in accordance with the provisions of 10 U.S.C. 2669 and such other authorities as may be necessary. Subject to the conditions of such easement, the User 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 under this agreement.

c. Rights Reserved. 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 User recognizes that this agreement provides storage space for raw water only. The Government makes no representations with respect to the quality or availability of water and assumes no responsibility therefore, 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 (15) 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. The total available remaining storage space in the Project will then be divided among the various Project features in the same ratio as was initially utilized. Adjusted pool elevations will be rounded to the nearest one-half foot. Such findings and the storage space allocated to municipal and industrial water supply 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 or released from the aforesaid storage space shall be the sole responsibility of the User. The User has the full responsibility to acquire in accordance with State laws and regulations, and, if necessary, 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 User 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 User shall pay to the Government a share of the costs of such operation and maintenance as provided in Article 5c. The User shall be responsible for operation and maintenance of all installations and

facilities, which it may construct for the diversion or withdrawal of water, and shall bear all costs of construction, operation and maintenance of such installations and facilities.

ARTICLE 4 - Measurement of Withdrawals and Releases. The User agrees to furnish and install, 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 User shall furnish electronically or other agreed upon means to the Government at least monthly statements of all such daily withdrawals. During periods of declared drought or extreme reservoir drawdown, daily updates shall be furnished. Prior to the construction or modification of any facilities for withdrawal of water from the Project, the User will 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. The measure of all such releases shall be by suitable means as may be agreed upon prior to use of the water supply storage space.

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 User shall pay the following sums to the Government:

a. First Cost of Storage.

(1). The User 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 allocated to the water storage right acquired by the User under this agreement. The cost is based on updated cost of storage. The costs shown in Exhibit B are for 10,292 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 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 agreement is approved. For FY 2005, such rate is 5.125 percent. Should the agreement not be signed in FY 2005, the amounts due herein will be adjusted to reflect the application of the appropriate rate.

(2). The cost allocated to the storage space indicated in Article 1b(1) is currently estimated at \$3,455,197 on the basis of the costs presented in Exhibit B-II. These costs shall be repaid within the life of the Project in not to exceed 30 years from the date of approval of this agreement 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 30 days after the User is notified by the District Engineer of approval of this agreement by the Secretary of the Army. 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 retirement of principal, 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 investment costs allocated to the storage within 30 years from the above date.

b. Repair, Rehabilitation, and Replacement (RR&R) Costs. The User will be required to pay 0.455 percent of the cost of joint-use RR&R of Project features. Payment of these costs shall be made either incrementally during construction or in lump sum (including interest during construction) upon completion of construction.

c. Annual Operation and Maintenance (O&M) Expense. The User will be required to pay 0.455 percent of the annual experienced joint-use O&M expense of the Project. Payments for O&M expense are due and payable in advance on the date for payment of the first cost of storage as set forth in Article 5a(2) and shall be based on O&M expense for the Project in the Government fiscal year most recently ended. The amount of each annual payment will be the actual experienced O&M expense (~~(specific plus)~~ allocated joint-use) for the preceding fiscal year or an estimate thereof when actual expense information is not available.

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

e. Delinquent Payments. If the User shall fail to make any of the aforesaid payments when due, then the overdue payments shall bear interest compounded annually until paid. The interest rate to be used for overdue payments due under the provisions of Articles 5a, 5b, 5c and 5d above shall be that determined by the Department of Treasury's Treasury Fiscal Requirements Manual (1 TFRM 6-8000, "Cash Management"). The amount charged on payments overdue for a period of less than one year shall be figured on a monthly basis. For example, if the payment is made within the first month after being overdue after a 15-day grace period from the anniversary date of the date of notification, one month's interest shall be charged. Thereafter a month's interest will be charged for any portion of each succeeding month that the payment is delinquent. This provision shall not be construed as giving the User 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 User.

ARTICLE 6 - Duration of Agreement. This agreement shall become effective when approved 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.

ARTICLE 7 - Permanent Rights to Storage. Upon completion of payments by the User, as provided in Article 5a herein, the User 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. The User shall continue payment of annual operation and maintenance costs allocated to water supply.

b. The User shall bear the costs allocated to water supply of any necessary reconstruction, rehabilitation, or replacement of Project features, which may be required to continue satisfactory operation of the Project. 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 5b for reconstruction, rehabilitation, and replacement costs, and be made a part of this agreement.

c. Upon completion of payments by the User as provided in Article 5a, the District Engineer shall redetermine the storage space for municipal and industrial water supply in accordance with the provisions of Article 1e. 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.

d. The permanent rights of the User under this agreement shall be continued so long as the Government continues to operate the Project. 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 User 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 absolvment of the Government by the User from all liability in connection with such continued operation.

ARTICLE 8 - Release of Claims. The User 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 User or as a result of the construction, operation, or maintenance of the water supply facilities and appurtenances thereto owned and operated by the User except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE 9 - Transfers and Assignments.

a. The User shall not transfer or assign this agreement nor any rights acquired thereunder, 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 approval of the Secretary of the Army, or his 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 User and furnished to any third party or parties, nor any method of allocation thereof.

b. Regarding approval of assignments, references to restriction of assignments shall not apply to any transfer or assignment to the Rural Economic Community Development (RECD), formerly Farmers Home Administration, or its successor agency, or nominee, given in connection with the pledging of this water storage agreement as security for any loans or arising out of the foreclosure or liquidation of said loans. The User will notify the Corps in writing 15 days prior to applying for a RECD loan. A copy of the final loan instrument will be furnished to the Corps for their record.

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 User 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 User 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 User of any facilities, specific actions will be taken to control environmental pollution, which could result from such activity and to comply with applicable Federal, State, 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 User agrees to comply with all applicable Federal and State laws and regulations, including but not limited to the provisions of the Davis-Bacon Act (40 U.S.C. 276a et seq.); the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333); Title 29, Code of Federal Regulations, Part 3; and Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646).

b. Civil Rights Act. The User 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 300 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 User's facilities and operations undertaken under this agreement shall be performed only in accordance with applicable Federal, State, and local laws and regulations.

d. Lobbying Activities. The User furnishes, as part of this agreement, a certification (Exhibit E and if applicable, a 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 - Definitions.

a. First cost of storage. This is the cost assigned to the Users right to the storage space in the project. This cost was developed by updated cost of storage 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 any two or more Project purposes.

e. Annual operation and maintenance (O&M) expense. Annual expenses funded under the O&M, General account. These expenses include the daily Project O&M costs as well as those O&M costs, which are not capitalized.

f. Repair, rehabilitation and replacement (RR&R) costs. Costs funded in part under the Operation and Maintenance, General, or Construction, General accounts but not associated with first cost of storage. Such expenditures are for costly, infrequent work and are intended to ensure continued satisfactory operation of the Project. 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. The September calendar year corresponds to the fiscal year.

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

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

ARTICLE 15 - Approval of Agreement. This agreement shall be subject to the written approval of the Secretary of the Army or his duly authorized representative and shall not be binding until so approved.

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

APPROVED:

THE UNITED STATES OF AMERICA

\_\_\_\_\_  
Director of Civil Works

\_\_\_\_\_  
District Engineer

By

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

CITY OF HENDERSON

By \_\_\_\_\_  
Mayor

DATE: \_\_\_\_\_

**EXHIBIT A: CERTIFICATION**

I \_\_\_\_\_, Attorney for the \_\_\_\_\_ City of Henderson, North Carolina \_\_\_\_\_, have reviewed the foregoing agreement executed by \_\_\_\_\_, and as principal legal officer of/for the \_\_\_\_\_ City of Henderson, North Carolina \_\_\_\_\_ certify that [I have considered the legal effect of Section 221 of the 1970 Flood Control Act (Public Law 91-611) and find that] \_\_\_\_\_ City of Henderson, North Carolina \_\_\_\_\_ is legally and financially capable of entering into the contractual obligations contained in the foregoing agreement and that, upon acceptance, it will be legally enforceable.

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_

Attorney for the \_\_\_\_\_

**EXHIBIT B: COST COMPUTATIONS**

I - LAKE STORAGE

Feature  (1)	Elevation (feet, NGCD)  (2)		Usable Storage (acre-feet) 1/  (3)	Percent of	
				Usable Storage 2/  (4)	Conservation Storage 3/  (5)
Flood Control	300	320	1,282,367	56.681	
Conservation	268	300	980,054	43.319	100.000
Water Supply			21,115	0.934	2.154
User - Virginia Beach			10,200	0.451	1.041
User - Virginia DOC			23	0.001	0.002
User - Mecklenburg Co-Gen			600	0.027	0.061
User - Henderson			10,292	0.455	1.050
Hydropower			958,939	42.385	97.846
Total Usable Storage			2,262,421	100.00	

Notes

1/ Storage remaining after 100 years of sedimentation from the date the project is operational and does not include dead storage and/or storage set aside for hydropower head.

2/ Used to compute the Users cost (see Exhibits B-II and B-III)

3/ This percent is used to compute the Users storage space (see Article 1b(1)).

**EXHIBIT B: (Continued)**

**II - UPDATED CONSTRUCTION COSTS TO BE REPAID BY THE USER  
FOR THE REALLOCATED STORAGE SPACE**

**Updated Cost of Storage**

<b>Description</b>	<b>As-Built Joint-Use Costs (\$)</b>	<b>ENR Index Ratio</b>	<b>CWCCIS Index Ratio</b>	<b>Land Update Factor</b>	<b>FY 2005 Joint- Use Cost (\$)</b>
Lands and Damages	10,401,000			13.338 1/	138,728,538
Relocations	14,810,000	2.2516	6.0064		200,290,592
Reservoirs	5,140,000	2.2516	6.3316		73,277,025
Dams	24,601,000	2.2516	5.7892		320,673,118
Roads, Railroads & Bridges	1,043,000	2.2516	6.0064		14,105,543
Buildings, Grounds, and Utilities	570,000	2.2516	5.8241		7,474,720
Permanent Operating Equipment	380,000	2.2516	5.8241		4,983,147
<b>Total Cost</b>	<b>56,945,000</b>				<b>759,532,683</b>

Footnote: 1/

Derivation of Factor:

As-built Joint-Use Cost (-) Lands and Damages	= \$ 46,544,000
FY '05 Cost (-) Lands and Damages	= \$620,804,145
Ratio 620,804,145/46,544,000	= 13.338

The calculation for the updated cost of storage from John H. Kerr Reservoir for 10,292 acre-feet of storage (out of a total usable storage of 2,262,421 acre-feet) is as follows:

$$\frac{\$759,532,683 \times 10,292 \text{ acre-feet}}{2,262,421 \text{ acre-feet}} = \$3,455,197$$

**EXHIBIT B: (Continued)**

**II - UPDATED CONSTRUCTION COSTS TO BE REPAID BY THE USER  
FOR THE REALLOCATED STORAGE SPACE (Continued)**

**ENR and CWCCIS Cost Update Indices**

Engineering News Record Construction Cost Index

<u>Year</u>	<u>ENR Index</u>	<u>Ratio</u>
1949	477	
1967	1074	2.2516

CWCCIS Update Index

<u>Feature</u>	<u>1967</u>	<u>FY2005</u>	<u>Index Ratio</u>
Relocations	100	600.64	6.0064
Reservoirs	100	633.16	6.3316
Dams	100	578.92	5.7892
Roads, Railroads & Bridges	100	600.64	6.0064
Bldgs, Grounds, and Utilities	100	582.41	5.8241
Permanent Operating Equip	100	582.41	5.8241

**EXHIBIT B: (Continued)**

**III - TOTAL ANNUAL COST TO USER**  
**FOR THE REALLOCATED WATER SUPPLY STORAGE**

<b>Item</b>	<b>Type of Use</b>	<b>Computation</b>	<b>Cost</b>
Interest and amortization	Total cost of storage space acquired by the User as determined in Exhibit B-II.	\$3,455,197 based on 30 payments, with interest at 5.125%.	\$216,864.04
Operation and maintenance 1/	Joint-use estimated	0.454911% 2/x \$2,722,255	\$ 12,384
Repair, rehabilitation and replacement 3/	Joint-use estimated	0.454911% 2/ x \$950,906	\$ 4,326

Notes:

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

2/ Percent of Users 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). It is suggested that the amount shown be placed in a reserve or sinking fund for future contingency.

**EXHIBIT C: AMORTIZATION SCHEDULE PRESENT DEMAND 1/**

Total Cost: \$ 3,455,197.00  
 Interest Rate, Percent 2/ 5.125%  
 Number of Payments: 30  
 Initial Billing (Estimated) 1-Nov-05

Year	Interest	Principle Payment	Total Payment	Principle Balance
Beg Bal				\$ 3,455,197.00
Nov-05		\$ 216,864.04	\$ 216,864.04	\$ 3,238,332.96
Nov-06	\$ 165,964.56	\$ 50,899.48	\$ 216,864.04	\$ 3,187,433.48
Nov-07	\$ 163,355.97	\$ 53,508.07	\$ 216,864.04	\$ 3,133,925.41
Nov-08	\$ 160,613.68	\$ 56,250.36	\$ 216,864.04	\$ 3,077,675.05
Nov-09	\$ 157,730.85	\$ 59,133.19	\$ 216,864.04	\$ 3,018,541.86
Nov-10	\$ 154,700.27	\$ 62,163.77	\$ 216,864.04	\$ 2,956,378.09
Nov-11	\$ 151,514.38	\$ 65,349.66	\$ 216,864.04	\$ 2,891,028.43
Nov-12	\$ 148,165.21	\$ 68,698.83	\$ 216,864.04	\$ 2,822,329.60
Nov-13	\$ 144,644.39	\$ 72,219.65	\$ 216,864.04	\$ 2,750,109.95
Nov-14	\$ 140,943.14	\$ 75,920.90	\$ 216,864.04	\$ 2,674,189.05
Nov-15	\$ 137,052.19	\$ 79,811.85	\$ 216,864.04	\$ 2,594,377.20
Nov-16	\$ 132,961.83	\$ 83,902.21	\$ 216,864.04	\$ 2,510,474.99
Nov-17	\$ 128,661.84	\$ 88,202.20	\$ 216,864.04	\$ 2,422,272.79
Nov-18	\$ 124,141.48	\$ 92,722.56	\$ 216,864.04	\$ 2,329,550.23
Nov-19	\$ 119,389.45	\$ 97,474.59	\$ 216,864.04	\$ 2,232,075.64
Nov-20	\$ 114,393.88	\$ 102,470.16	\$ 216,864.04	\$ 2,129,605.48
Nov-21	\$ 109,142.28	\$ 107,721.76	\$ 216,864.04	\$ 2,021,883.72
Nov-22	\$ 103,621.54	\$ 113,242.50	\$ 216,864.04	\$ 1,908,641.22
Nov-23	\$ 97,817.86	\$ 119,046.18	\$ 216,864.04	\$ 1,789,595.04
Nov-24	\$ 91,716.75	\$ 125,147.29	\$ 216,864.04	\$ 1,664,447.75
Nov-25	\$ 85,302.95	\$ 131,561.09	\$ 216,864.04	\$ 1,532,886.66
Nov-26	\$ 78,560.44	\$ 138,303.60	\$ 216,864.04	\$ 1,394,583.06
Nov-27	\$ 71,472.38	\$ 145,391.66	\$ 216,864.04	\$ 1,249,191.40
Nov-28	\$ 64,021.06	\$ 152,842.98	\$ 216,864.04	\$ 1,096,348.42
Nov-29	\$ 56,187.86	\$ 160,676.18	\$ 216,864.04	\$ 935,672.24
Nov-30	\$ 47,953.20	\$ 168,910.84	\$ 216,864.04	\$ 766,761.40
Nov-31	\$ 39,296.52	\$ 177,567.52	\$ 216,864.04	\$ 589,193.88
Nov-32	\$ 30,196.19	\$ 186,667.85	\$ 216,864.04	\$ 402,526.03
Nov-33	\$ 20,629.46	\$ 196,234.58	\$ 216,864.04	\$ 206,291.45
Nov-34	\$ 10,572.44	\$ 206,291.45	\$ 216,863.89	\$ 0.00
	\$ 3,050,724.05	\$ 3,455,197.00	\$ 6,505,921.05	

Notes:

- 1/ An amortization schedule is applicable to those projects that will be repaid over a period of years. An option is to pay the first cost of storage in lump sum payment prior to initiation of use.
- 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 (30th) payment will be adjusted upward or downward to assure all costs are repaid within 30 years of approval of the agreement.

**EXHIBIT D: ASSURANCE OF COMPLIANCE**

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**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 Part 300), issued as Department of Defense Directive 5500.11 (December 28, 1964), pursuant to that title; The Age Discrimination Act of 1975 (42 U.S.C. 5102); 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 \_\_\_\_\_

\_\_\_\_\_  
(Applicant-Recipient)

By \_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Applicant-Recipient's Mailing Address)

## EXHIBIT E: CERTIFICATION REGARDING LOBBYING

\_\_\_\_\_ [Project Name]

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 [project name], the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions. This form is available to users by requesting it telephonically at (202)761-,0115 or by writing to HQUSACE (CECW-P), 441 G Street, NW, Washington, D.C., 20314-1000.

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.

SPONSOR

BY \_\_\_\_\_



**DISCLOSURE OF LOBBYING ACTIVITIES**  
Continuation Sheet

Reporting Entity: \_\_\_\_\_ Page \_\_\_\_\_  
\_\_\_\_\_ of \_\_\_\_\_

## **INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an office or employee of any agency, a Member of Congress, an office or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known., Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the St. tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks, ASubawardee,≡ then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if know. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If know, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., ARFP-DE-90-001.≡

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award loan commitment for the prime entity identified in item 4 or 5.

10. (a). Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b). Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution. Specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply., If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 3 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D., 20503
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