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*Augusta, GA 30401*  
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**CONSERVATION LAND USE  
LETTER AGREEMENT**

BETWEEN  
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT,  
THE GEORGIA LAND TRUST SERVICE CENTER,  
THE CENTRAL SAVANNAH RIVER LAND TRUST,  
AND AUGUSTA, GEORGIA

**ARTICLE I. PURPOSE AND AUTHORITY**

This Letter Agreement ("Agreement") is entered into by and between the U.S. Army Corps of Engineers, Savannah District, Savannah, Georgia ("Corps of Engineers"), The Georgia Land Trust Service Center ("GLTSC"), The Central Savannah River Land Trust ("CSRLT") and Augusta, Georgia for the purpose of establishing a mutual framework governing the agreement of the parties.

The Corps of Engineers is charged with carrying out the permitting authority under Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers & Harbors Act of 1899 (33 U.S.C. 403). (Also see 33 C.F.R. 320-330) Under its permitting authority, the Corps of Engineers may decide to perform what is known as "compensatory mitigation" in return for unavoidable impacts to waters of the United States, including wetlands, due to the activities of dredge and discharge of fill. One method of compensatory mitigation involves payment of funds by holders of Section 404 or Section 10 permits, to the Georgia Land Trust Service Center, Athens, Georgia.

The Georgia Land Trust Service Center is a special project of the Georgia Environmental Policy Institute. It is a private non-profit environmental organization which has been determined to be exempt from federal income tax under section 501 (c) (3) of the Internal Revenue Code. The mission of the Service Center is to increase the capacity of land trusts to effectively and efficiently protect significant open space in Georgia for present and future generations. Funds approved through the Corps of Engineers permit process are placed in the Georgia Wetland Trust Fund ("GWTF"). A copy of the Agreement between the Corps of Engineers, Savannah District, and the GLTSC is attached hereto as **Exhibit A** and incorporated by reference.

The Central Savannah River Land Trust is a private non-profit organization which has been determined to be exempt from federal income tax under section 501 (c) (3) of the Internal Revenue Code with a central mission to promote the protection of one of our region's most valuable assets: our open land. The CSRLT's office is located in Augusta, Georgia. The CSRLT has assisted in the protection of over 2,300 acres of land in Augusta-Richmond, Columbia, and McDuffie Counties. The CSRLT focuses on strategic sites which are located near and around waterways, wetlands, and old-growth hardwood forests, and works to conserve these lands through private, corporate, and governmental partnerships. Currently the CSRLT maintains a contract with Augusta-Richmond County to manage the County's Greenspace Program. Through said contract, the CSRLT directs the purchase and conservation of lands with conservation values for the County's Program.

It is the intent of the parties: (a) that funds from the Georgia Wetland Trust Fund paid to Augusta-Richmond County for the acquisition costs of the Property (as defined in Article II below) in the State of Georgia and to the CSRLT for the stewardship and monitoring costs of said Property; (b) that the County transfer a conservation easement encompassing the entirety of the acquired Property to the CSRLT in accordance with the terms and conditions of this Agreement; and (c) that the Property be protected in perpetuity for its conservation values.

## ARTICLE II. ACQUISITION OF LAND BY AUGUSTA, GEORGIA & THE CENTRAL SAVANNAH RIVER LAND TRUST

Upon written direction by the Corps of Engineers, the GLTSC will forward funds in the amount of \$80,000 to Augusta, Georgia and \$15,000 to the Central Savannah River Land Trust. The funds shall be made payable to the Augusta, Georgia Greenspace Program and the Central Savannah River Land Trust, respectively, and shall be forwarded by certified check to the addresses listed in Article IX.

Augusta, Georgia agrees to apply its portion of the funds from the Georgia Wetland Trust Fund to acquisition expenses incurred with respect to a specific tract of land, said land being more particularly described in **Exhibit B**, the legal description, and incorporated by reference. The tract is referenced as the Knox Foundation tract and is defined for purposes of this Letter Agreement as the "Property."

The Central Savannah River Land Trust agrees to apply its portion of the funds from the Georgia Wetland Trust Fund to stewardship and monitoring expenses incurred with respect to the same specific tract of land, said land being more particularly described in **Exhibit B**.

Augusta, Georgia agrees to furnish the Corps of Engineers and the GLTSC with a letter stating that the funds forwarded by the GLTSC have been applied to the acquisition of the stated Property and that the Central Savannah River Land Trust has been granted a permanent conservation easement on the Property.

## ARTICLE III. SURVEY

A plat of the Property dated January 1, 1978 is attached to this Letter Agreement as **Exhibit "C"**

The funds from the GWTF will apply toward the acquisition of the entire tract as referenced in Exhibit B. Specifically, funds from the GWTF will protect 2,000 linear feet of a perpetually flowing tributary ("Spirit Creek") to the Savannah River and approximately 16 acre/s of wetland. The location of Spirit Creek is shown on the map attached as Exhibit "C".

There are currently no easements recorded on this property.

#### ARTICLE IV – PROPERTY IDENTIFIED AS CLEAN WATER ACT SECTION 404 MITIGATION PROPERTY AND DOCUMENTED AS SUCH

It is further the intent of the Corps of Engineers that the Property be set aside as compensatory mitigation pursuant to compliance with the Clean Water Act, Section 404 and that these preserved creek, wetlands, and their buffers, not be utilized again as mitigation by any future Clean Water Act Section 404 permit applicant. Therefore, in any transfer of title of property containing the portion of Spirit Creek paid for by funds from the GWTF shall reference the Knox Foundation Tract as compensatory mitigation property pursuant to Section 404 of the Clean Water Act and shall reference this Agreement.

#### ARTICLE V. SPECIFICATION OF ECOLOGICAL FUNCTIONS

The values and ecological functions of the Property shall be set forth in an attachment to this Agreement, as **Exhibit D**, and shall be incorporated by reference.

The Knox Foundation Tract consists of 26.071 +/- acres of heavily forested creek buffer lying along Spirit Creek, a Savannah River tributary, in southern Richmond County. The tract lies along both sides of the creek with just over 2,000 feet of creek frontage and is populated by mature hardwoods and pines. The creek is home to over twenty species of freshwater fish, as well as scores of reptiles, amphibians, invertebrates, and mammals such as beaver, river otter, and muskrat. Comprehensive lists of these species are included in this report. According to information provided by the owner, the property has approximately \$50,000 in timber value.

This property meets with eight of the nine stated goals of the Georgia Community Greenspace Program: flood protection, erosion reduction, wetlands protection, buffer protection, protection of water quality, scenic protection, recreational potential, and connection potential. Its thick, mature forest that buffers both sides of the creek provides a stable base to retain soil and absorb storm water runoff during the flood season, provides a healthy shelter for the area's 16 acres of wetlands, and is an excellent water purifier.

The under story of the property adjacent to Spirit Creek is dominated by invasive Chinese privet. The CSRLT will conduct an aggressive privet management plan for the tract for the initial and on-going removal of privet from the site.

New subdivision development is occurring immediately adjacent to the subject property. Stormwater detention basins are constructed to discharge into the tract. The CSRLT will maintain a proactive advocacy with adjoining property owners to insure that non-invasive

stormwater management BMPs during construction and post-construction are maintained and will not adversely impact the functional attributes of the subject tract.

In addition to the new residential neighborhood, the Spirit Creek property is located near an elementary and a middle school. Both the neighborhood association and the middle school have adopted the creek and plan to conduct outdoor educational programming and enjoy passive recreational activities such as hiking on site. The CSRLT will work with the elementary school to involve their students in similar programming and activities in the future.

An additional 36.82 acres of permanently protected land held under easement by the Central Savannah River Land Trust (CSRLT) and designated as permanently protected Greenspace lies just a mile upstream from the Knox Foundation Tract. The potential to connect these tracts is high, as the land along the creek in between remains largely undeveloped. This undeveloped land also lies adjacent to the Diamond Lakes Recreational Facility, a much-used Augusta-Richmond County park facility, and could easily be incorporated into the facility's services with the addition of foot trails and educational signage.

No improvements, easements or right-of-ways exist on this land. There will be no additional impacts to the property, other than construction of simple, pervious walking paths, board walks and signage, which shall receive approval prior to construction by the Corps of Engineers. This will be open to the public for passive recreational and educational use and will be used mainly for environmental education by the Spirit Creek Elementary School. It will be managed jointly by Augusta, Georgia and the CSRLT.

Two entities, the Central Savannah River Land Trust and Augusta, Georgia, are interested in this tract's acquisition and preservation. The CSRLT, a non-profit organization, is contracted by Augusta, Georgia to administer their Greenspace Program. The parcel discussed in this letter of agreement will be purchased using GWTF funds by Augusta, Georgia and upon closing will be placed under permanent conservation easement in its entirety with the Land Trust and added to the County's Greenspace inventory.

**Species List for Spirit Creek – South Richmond County, GA**

**Fish:**

American Eel (*Anguilla rostrata*)  
Pirate perch (*Aphredoderus sayanus*)  
Creek chubsucker (*Erimyzon oblongus*)  
Spotted sucker (*Minytrema melanops*)  
Redbreast sunfish (*Lepomis auritus*)  
Warmouth (*Lepomis gulosus*)  
Bluegill (*Lepomis macrochirus*)  
Redear sunfish (*Lepomis microlophus*)  
Spotted sunfish (*Lepomis punctatus*)  
Largemouth bass (*Micropterus salmoides*)  
Black crappie (*Pomoxis nigromaculatus*)  
Golden shiner (*Notemigonus crysoleucas*)  
Yellowfin shiner (*Notropis lutipinnis*)  
Banded pygmy sunfish (*Elassoma zonatum*)  
Redfin pickerel (*Esox americanus americanus*)  
Tadpole madtom (*Noturus gyrinus*)  
Speckled madtom (*Noturus leptacanthus*)  
Swamp darter (*Etheostoma fusiforme*)  
Tessellated darter (*Etheostoma olmstedii*)  
Blackbanded darter (*Percina nigrofasciata*)  
Mosquitofish (*Gambusia holbrooki*)

**Mammals:**

Beaver (*Castor canadensis*)  
Muskrat (*Ondatra zibethicus*)  
River Otter (*Lutra canadensis*)

**Reptiles:**

Snapping Turtle (*Chelydra serpentina*)  
Eastern Mud Turtle (*Kinosternon subrubrum subrubrum*)  
Common Musk Turtle (*Sternotherus odoratus*)  
Yellow-bellied Slider (*Trachemys scripta scripta*)  
Banded Water Snake (*Nerodia fasciata fasciata*)  
Brown Water Snake (*Nerodia taxispilota*)  
Black Swamp Snake (*Seminatrix pygaea*)  
Eastern Mud Snake (*Farancia abacura abacura*)  
Cottonmouth / Water Moccasin (*Agkistrodon piscivorus*)  
Red-bellied Water Snake (*Nerodia erythrogaster erythrogaster*)  
American Alligator (*Alligator mississippiensis*)

**Amphibians:**

Bullfrog (*Rana catesbeiana*)  
Bronze Frog (*Rana clamitans clamitans*)  
Green Treefrog (*Hyla cinerea*)

Cricket Frog (*Acris* sp.)  
Southern Leopard Frog (*Rana utricularia*)  
Spring Peeper (*Pseudacris crucifer crucifer*)  
Eastern Narrowmouth Toad (*Gastrophryne carolinensis*)  
Spotted Salamander (*Ambystoma maculatum*)  
Marbled Salamander (*Ambystoma opacum*)  
Dwarf Waterdog (*Necturus punctatus*)

**Invertebrates:**

Planarian (*Dugesia* sp.)  
Aquatic worm (*Limnodrilus* sp.)  
Leech (Hirudinea)  
Gilled Snail (Prosobranchia)  
Pouched Snail (Pulmonata)  
Clam (Bivalvia)  
Water Flea (*Daphnia* sp.)  
Cyclops (*Cyclops* sp.)  
Aquatic Sowbug (*Caecidotea*)  
Scud (Amphipoda)  
Crayfish (*Procambarus* sp.)  
Shrimp (*Palaemonetes* sp.)  
Six-spotted Fishing Spider (*Dolomedes triton*)  
Water Mites (Hydrachnellae)

**Mayflies:**

Flatheaded Mayflies (Heptageniidae)  
Small Squaregill Mayflies (Caenidae)

**Damselfly:**

Ebony Jewelwing (*Calopteryx maculata*)  
Blue-tipped Dancer (*Argia tibialis*)  
Variable Dancer (*Argia fumipennis*)  
Fragile Forktail (*Ischnura posita*)  
Citrine Forktail (*Ischnura hastata*)  
Rambur's Forktail (*Ischnura ramburii*)  
Orange Bluet (*Enallagma signatum*)

**Dragonfly:**

Common Green Darner (*Anax junius*)  
Swamp Darner (*Epiaescha heros*)  
Lancet Clubtail (*Gomphus exilis*)  
Common Baskettail (*Epiptera cynosura*)  
Prince Baskettail (*Epiptera princeps*)  
Carolina Saddlebags (*Tramea carolina*)  
Wandering Glider (*Pantala flavescens*)  
Eastern Amberwing (*Perithemis tenera*)  
Four-spotted Pennant (*Brachymesia gravida*)  
Halloween Pennant (*Celithemis eponina*)  
Painted Skimmer (*Libellula semifasciata*)  
Golden-winged Skimmer (*Libellula auripennis*)  
Common Whitetail (*Libellula lydia*)

Widow Skimmer (*Libellula luctuosa*)  
Spangled Skimmer (*Libellula cyanea*)  
Slaty Skimmer (*Libellula incesta*)  
Great Blue Skimmer (*Libellula vibrans*)  
Blue Dasher (*Pachydiplax longipennis*)  
Eastern Pondhawk (*Erythemis simplicicollis*)  
Little Blue Dragonlet (*Erythrodiplex miniscula*)  
Roseate Skimmer (*Orthemis ferruginea*)  
Common Stonefly (Perlidae)  
Backswimmers (Notonectidae)  
Water Scorpion (Nepidae)  
Creeping Water Bugs (Naucoridae)  
Giant Water Bugs (Belostomatidae):  
    Eastern Toe-biter (*Benacus griseus*)  
Water Boatmen (Corixidae)  
Water Striders (Gerridae):  
    Common Water Strider (*Gerris remigis*)  
Alderflies (*Stalis sp.*)  
Fishfly (Chauliodinae)  
Dobsonfly (*Corydalus sp.*)  
Predaceous Diving Beetle (Dytiscidae)  
Whirligig Beetle (*Gyrinus sp.*)  
Longtoed Water Beetle (Dryopidae)  
Riffle Beetle (Elmidae)  
Caddisflies:  
    Common Netspinners (Hydropsychidae)  
    Longhorned Case Maker (Leptoceridae)  
    Freeliving Caddisflies (Rhyacophilidae)  
Crane Fly (*Tipula sp.*)  
Mosquitoes (Culicidae)  
Biting Midges (Ceratopogonidae)  
Midges (Chironomidae)  
Bloodworm (Midge) (*Chironomus attenuatus*)  
Horse Flies and Deer Flies (Tabanidae)  
Rattailed Maggots (Ploridae)

#### ARTICLE VI – IMPACTS OF JURISDICTIONAL WATERS OF THE UNITED STATES

The GLTSC shall provide a list of those Clean Water Act permit numbers and/or enforcement violation file numbers, and/or those violations associated with Environmental Protection Agency penalty assessments that are relevant to the source of funds available for acquisition of this tract. That list shall be referenced as **Exhibit E** and shall be attached to this Letter Agreement.

#### ARTICLE VII --TRANSFER OF CONSERVATION EASEMENT

The parties acknowledge and agree that Augusta, Georgia intends to transfer a permanent conservation easement encompassing the entirety of the Property to the Central Savannah River Land Trust in the immediate future.

#### ARTICLE VIII – OWNERSHIP AND MANAGEMENT

Augusta, Georgia will retain long-term ownership of the Property and will contract with the Central Savannah River Land Trust to manage the land. The Central Savannah River Land Trust will maintain and enforce a conservation easement placed on the entirety of the Property, using funds allocated by the GLTSC for stewardship and monitoring. Any transfer of ownership of the property in the future shall not be allowed to affect the CSRLT's management of the Property.

#### ARTICLE IX - POINTS OF CONTACT

The Point of Contact ("POC") and address for the U.S. Army Corps of Engineers is:

Mirian Magwood, Chief, Regulatory Branch  
U.S. Army Corps of Engineers, Savannah District  
100 West Oglethorpe Avenue  
Savannah, Georgia 31402-0889  
(912-652-5768)

The POC and address for the Central Savannah River Land Trust is:

Hazel Langrall, Program Manager  
Central Savannah River Land Trust  
PO Box 148  
Augusta, GA 30903  
(706-312-5263)

The POC and address for Augusta, Georgia is:

David S. Copenhaver, Mayor  
Augusta-Richmond County  
525 Telfair Street  
Augusta, GA 30901  
(706-821-1831)



The POC for the Georgia Land Trust Service Center is:

Hans Neuhauser, Executive Director  
Georgia Land Trust Service Center  
380 Meigs St.  
Athens, Ga. 30601  
(706-546-7507)

#### ARTICLE X. OPEN COMMUNICATION AND COOPERATION

The Corps of Engineers, the GA Land Trust Service Center, the Central Savannah River Land Trust and Augusta, Georgia all acknowledge that it is their desire to facilitate the process set forth in this agreement by open communication and cooperation. All parties agree to exercise their rights and obligations in good faith as contained in this agreement. If at any time any party has questions regarding the application of the funds to acquire the Knox Foundation tract for perpetual protection, the parties agree to make themselves available to resolve the issue in a timely fashion.

#### ARTICLE XI. AMENDMENTS and TERMINATION

This Agreement may be amended in writing by mutual consent.

This Agreement may not be terminated by either party without ninety (90) days written notice of intent to terminate.

Amendments or dissolution of this Letter Agreement shall provide for the future conservation protection of the property pursuant to the intent of this Letter Agreement. Although the U.S. Army Corps of Engineers is not authorized under the Clean Water Act, Section 404 to hold an interest in mitigation land either in fee or as a holder of an easement, it does have the authority pursuant to The Clean Water Act, Section 404, to enforce the protection of the waters of the United States, and their buffers, on this mitigation property site. Therefore, if the Agreement is terminated, the U.S. Army Corps of Engineers shall approve a new means for perpetual protection of the property.

The statutory requirements for compensatory mitigation pursuant to Section 404 of the Clean Water Act (33 U.S.C.1344) shall be addressed within the context of any amendment or termination consideration by the parties.

Should the property be condemned through the process of eminent domain, the assessed value of the property shall include the cost of replacement of the property with acquisition of another comparable site in the same watershed having the same conservation functions and values and the same environmental quality of the waters, streams, creeks, wetlands, aquatic habitat and vegetation as provided on the condemned property to assure that there is compliance with The Clean Water Act. The U.S. Army Corps of Engineers, Savannah District, shall be put on notice of any condemnation or adverse actions that would extinguish or reduce the conservation values associated with the property in order to allow the Corps to file a motion to

intervene or to remove the action to the U.S. Federal District Court in order to assure that assessed proceeds reflect the amount of funds required to protect properties containing comparable waters of the United States as required by the Clean Water Act.

SIGNATURES:

Each signature should have the name and title printed under the signature line, provide for one witness, and a notary public should notarize the signature and provide the notary's seal.

Witness

[Signature]

Notary Public: Nancy A. Gill  
My Commission Expires:

Date (Seal) Signature NANCY A. GILL  
Notary Public, Chatham County, Ga.  
My Commission Expires Apr. 3, 2009

U.S. ARMY CORPS OF ENGINEERS  
SAVANNAH DISTRICT

By: [Signature]  
Miriam Magwood, Chief, Regulatory Branch

Date: 5/10/06

Witness

[Signature]

Notary Public: [Signature]  
My Commission Expires:

Date (Seal) Signature NOTARY PUBLIC, ATHENS-CLARKE COUNTY, GEORGIA  
MY COMMISSION EXPIRES FEBRUARY 18, 2008

GEORGIA LAND TRUST SERVICE CENTER

By: Hans Neuhauser  
Hans Neuhauser  
Executive Director

Date: 5/2/06

Witness

[Signature]

Notary Public: [Signature]  
My Commission Expires:

Date (Seal) Signature ELIZABETH H. FRENCH  
NOTARY PUBLIC  
Richmond County, Georgia  
My Commission Expires January 18, 2010

CENTRAL SAVANNAH RIVER LAND TRUST

By: [Signature]  
Hazel Langrall  
Program Manager

Date: 4-25-06

Witness

[Signature]

Notary Public: [Signature]  
My Commission Expires:

Date (Seal) Signature Richmond County, Georgia  
My Commission Expires Jan. 8, 2007

AUGUSTA, GEORGIA

By: [Signature]  
David S. Copenhaver, Mayor  
Augusta, Georgia

Date: 4/27/06