SANDY SPRINGS
GEORGIA

CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council **DATE:** November 29, 2011

FROM: John McDonough, City Manager

AGENDA ITEM: Lease Renewal for River Park Property owned by Georgia Power located below the Morgan Falls Dam

MEETING DATE: For Submission onto the December 6, 2011, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum
Lease Agreement
Map
Resolution

APPROVAL BY CITY MANAGER: _____ *APPROVED*

_____ *NOT APPROVED*

PLACED ON AGENDA FOR: 12/6/2011

CITY ATTORNEY APPROVAL REQUIRED: (✓) *YES* ( ) *NO*

CITY ATTORNEY APPROVAL: _____

REMARKS:

SANDY SPRINGS
GEORGIA

To: John McDonough, City Manager

From: Ronnie Young, Recreation & Parks Director

Date: November 29, 2011 for Submission onto the December 6, 2011 City Council Regular Meeting Agenda

Description: Lease renewal for River Park property owned by Georgia Power located below the Morgan Falls Dam

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Recommendation:

The Recreation & Parks Department recommends that the City Council authorize and approve the Mayor to sign the lease with George Power Company for 3.5 acres know as River Park.

Background:

The City has held the lease and used the property for river access and other leisure activities for the past four years.

Discussion:

The lease is needed to continue providing a dog park in Sandy Springs.

Alternative:

Not accept the lease renewal for River Park.

Financial Impact:

Required liability insurance of $14,000 provided by the City.

Final Impact:

Users of the River Park will continue to have access to this park and dog park area.

Finance

STATE OF GEORGIA **FILE NO. 135**
FULTON COUNTY **Morgan Falls Project**

LEASE AGREEMENT
(Ground Lease)

THIS LEASE AGREEMENT is made and entered into this ___ of March 2011, to be effective as of January 1, 2011, between **GEORGIA POWER COMPANY**, a Georgia corporation with offices at BIN 10151, 241 Ralph McGill Boulevard, N.E., Atlanta, Fulton County, Georgia 30308-3374 (hereinafter referred to as 'Lessor"), and **CITY OF SANDY SPRINGS, GEORGIA**, a municipal corporation of the State of Georgia with offices at 7840 Roswell Road, Suite 500, Sandy Springs, Georgia 30350 (hereinafter referred to as "Lessee").

WITNESSETH:

THAT Lessor has this day rented and leased to Lessee the "Premises" (as hereinafter defined). "Premises" shall mean the "Land" (as hereinafter defined), less and except the "Excluded Property" (as hereinafter defined). "Land" shall mean that certain tract of land, together with the improvements located thereon, being in Land Lot 84, 17th District, Fulton County, Georgia, more particularly described on Exhibit "A" attached hereto and by reference made a part hereof. "Excluded Property" shall mean the following: (a) any and all property, real, personal or mixed (including without limitation fixtures or equipment), constituting all or any portion of any existing transmission or distribution lines or communications lines of Lessor or any affiliates of Lessor, including without limitation lines, poles, towers, frames, manholes, conduits, fixtures, appliances, wires, cables or equipment, or protective wires or devices, or communications lines, cables or equipment (collectively, the "GPC Facilities"); (b) the nonexclusive right and easement of pedestrian and vehicular ingress and egress to, from, between and among the GPC Facilities and Morgan Falls Road; (c) the nonexclusive right and easement of pedestrian and vehicular ingress and egress to, from, between and among Morgan Falls Road and transmission, distribution and communications lines hereafter constructed or installed on the Premises by Lessor or any affiliates of Lessor, including without limitation lines, poles, towers, frames, manholes, conduits, fixtures, appliances, wires, cables or equipment, or protective wires or devices, or communications lines, cables or equipment (collectively, the "Future GPC Facilities") and to, from, between and among the GPC Facilities and the Future GPC Facilities; (d) the nonexclusive right and easement of pedestrian and vehicular ingress and egress to, from, between and among Morgan Falls Road and transmission, distribution and communications lines now existing or hereafter constructed or installed adjacent to or in the vicinity of the Premises by Lessor or any affiliates of Lessor, including without limitation lines, poles, towers, frames, manholes, conduits, fixtures, appliances, wires, cables or equipment, or protective wires or devices, or communications lines, cables or equipment (collectively, the "Adjacent GPC Facilities") and to, from, between and among the GPC Facilities, the Future GPC Facilities and the Adjacent GPC Facilities; and (e) the nonexclusive right and easement of pedestrian and vehicular ingress and egress to and from the boat ramp located adjacent to the Premises and Morgan Falls Road.

The Premises are rented and leased by Lessor to Lessee subject to the following terms and conditions, to wit:

1. The term of this lease is twenty-four (24) years, commencing on January 1, 2011, and ending (unless sooner terminated as hereinafter provided) on December 31, 2035, at 11:59 PM.

2. As rental for the Premises, Lessee agrees to pay Lessor the sum of One Dollar ($1.00).

3. (a) The Premises shall be used solely for the purpose of a public park, conservation and recreation area, consistent with the provisions and restrictions of O.C.G.A. Sections 51-3-20 et. seq. for the purposes of (i) public sightseeing areas, picnicking areas, hiking areas, boating areas and fishing areas, where the public may sightsee, picnic, hike, boat and fish in accordance with the provisions of law (including but not limited to the rules and regulations of the Georgia Department of Natural Resources), and (ii) education of the public on wildlife and environmental matters, and for no other purpose whatsoever. This lease of the premises shall be subject to and subordinate to the lease agreement of the premises between Lessor and Georgia Department of Natural Resources.

(b) Lessee agrees to obtain all proper permits for the operation of the Premises for the purposes set forth in Paragraph 3(a) as well as the temporary uses permitted under Paragraph 3(c), including, but not limited to, written authorization from the Department of Natural Resources and the National Park Service. Lessee shall not impose any fees for admittance of vehicles to the Premises or parking of vehicles on the Premises.

(c) Portions of the Premises are temporarily being used for a dog park and operated by Lessee. The gate to the dog park area shall be approved by Lessor, shall not be locked (or, if locked, a combination lock will be used and Lessee will provide Lessor with the combination), and Lessor will have access to the dog park at all times. Lessee shall terminate the uses for a dog park on or before December 31, 2011. Lessee may request Lessor's consent to continued use as a dog park beyond December 31, 2011 by written notice to Lessor no later than November 30, 2011. Lessor may grant or withhold such consent in Lessor's sole discretion. Lessor reserves the right, in Lessor's sole discretion, to terminate the temporary use of the Premises as a dog park operation by giving not less than fifteen (15) days' written notice to Lessee. Lessee shall terminate such uses on or before the date set forth in such written notice from Lessee. All structures associated with the dog park (signage, fencing, fence posts, etc.) will be removed at the expense of Lessee on or before the date sixty (60) days after the date Lessee is to terminate such uses in accordance with this Paragraph 3(c). Lessee shall repair all damage caused by such removal, and restore the Premises to good order and condition as deemed acceptable by Lessor.

(d) Lessor reserves the right at any time and from time to time to limit vehicle occupancy at the Premises for concerns of safety and emergency access. At any time and from time to time in the event of an emergency, Lessor may notify Lessee to immediately evacuate the Premises, and Lessee shall evacuate the Premises immediately upon such notification. Lessor shall have the right to prohibit Lessee's access to and use of the Premises at any time and from time to time in connection with the exercise of Lessor's rights under Paragraph 30 of this lease. Lessee shall not hold Lessor responsible for any loss of revenue or costs sustained by Lessee in the exercise by Lessor of the rights identified or set forth in this Paragraph 3 or in Paragraph 30, and Lessee waives any claim or cause of action against Lessor for damages by reason of interruption of Lessee's uses of the Premises (including, without limitation, the dog park and river outfitter operation) or loss of revenues therefrom because of the exercise by Lessor of such rights.

(e) Lessee agrees that the Premises may or may not be suitable for the use Lessee desires to make of the Premises and that the Premises may not be in a safe or proper condition for such use. LESSEE AGREES THAT LESSEE IS LEASING, AND ACCEPTS, THE PREMISES

"AS IS", "WHERE IS", "WITH ALL FAULTS" AND LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO FITNESS, MERCHANTABILITY, USE OR CONDITION OF THE PREMISES.

4. Lessee agrees not to abandon or vacate the Premises during the term of this lease and agrees to continuously use the Premises solely for the purposes herein leased until the expiration of the term hereof; provided, however, either party may terminate this lease upon thirty (30) days written notice to the other party of such termination.

5. Neither this lease nor the interest of Lessee in this lease or in the Premises, or any part thereof, shall be sold, assigned, sublet or otherwise transferred by Lessee, in whole or in part, whether by operation of law or otherwise, without the prior written consent of Lessor, and any such assignment or sub-lease without said consent shall be null and void.

6. Lessee, at Lessee's sole cost and expense, shall obtain any and all appropriate municipal, county and state permits required for Lessee's use of the Premises and shall at all times use, occupy and operate the Premises in compliance with all applicable city, county, state, federal and local laws, ordinances, statutes, rules and regulations now in effect or hereafter enacted. Lessee shall not place, use, store, spill or discharge any hazardous, toxic or dangerous substances on the Premises. Lessee hereby indemnifies Lessor from any and all loss, cost, damage or expense ever incurred by Lessor as a result of Lessee's breach of the foregoing covenants and agreements of Lessee, and such indemnification shall survive the termination or expiration of the term of this lease.

7. Lessee shall not make any alterations, modifications, additions or improvements (including without limitation structures or buildings of any sort) or make any changes in, to or at the Premises (collectively, "Alterations") without first obtaining Lessor's written consent, which consent Lessor may grant or withhold in Lessor's sole discretion. Any Alterations desired to be made by Lessee or required to be made pursuant to any local, city, county, state or federal laws, rules, ordinances, statutes or regulations will be done at Lessee's sole cost and expense. All Alterations must be done in a good and workmanlike manner and in compliance with all applicable laws.

Notice is hereby given that Lessor shall not be liable for the cost and expense of any labor, services or materials furnished or to be furnished with respect to the Premises at or by the direction of Lessee or anyone holding the Premises or any part thereof by, through or under Lessee and that no laborer's, mechanic's or materialman's or other lien for any such labor, service or materials shall attach to or affect the interest of Lessor in and to the Premises. Nothing contained in this lease shall be deemed or construed in any way as constituting the consent or request of Lessor, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any improvements or repairs to or of the Premises or any part thereof, nor as giving Lessee any right, power or authority on behalf of Lessor to contract for or permit the rendering of any services or the furnishing of any materials that would, give rise to the filing of any lien against the Premises or any part thereof.

8. Lessee, at Lessee's sole cost and expense, shall keep the Premises in good order and repair (including without limitation any necessary replacements). Lessor gives to Lessee exclusive control of the Premises and shall be under no obligation to inspect or repair the Premises. Lessee further agrees, at Lessee's sole cost and expense, to care for the grounds

constituting a portion of the Premises, including without limitation the maintenance and upkeep of the common road, mowing of grass, care of shrubs and general landscaping. Lessee shall provide adequate restroom facilities and regularly scheduled disposal of garbage and animal waste from the Premises. Lessee assumes all responsibility for public safety, security, and law enforcement on the Premises.

9. Lessee shall not create or permit to be created or to remain, and, shall promptly discharge, at its sole cost and expense, any lien, encumbrance or charge upon the Premises, or any part thereof or upon Lessee's rights under this lease that arises from the use or occupancy of the Premises by Lessee or by reason of any labor, service or material furnished or claimed to have been furnished to or for the benefit of Lessee or by reason of any construction, repairs or demolition by or at the direction of Lessee.

10. (a) So long as Lessee maintains the dog park or any commercial activity whatsoever on the Premises (regardless of whether or not such activity is permitted under this lease), Lessee shall acquire and maintain, at Lessee's sole cost and expense, commercial general liability insurance covering the liability of Lessor and Lessee for bodily injury or death of persons and for damage to or destruction of property occurring on the Premises and arising out of the use or occupation of the Premises with a Combined Single Limit per occurrence of not less than $5,000,000.00 for bodily injury liability and $500,000 for property damage liability (the "Minimum Insurance"). The parties further acknowledge that upon written request from Lessor, at any time and from time to time, the amounts of the Combined Single Limit of the Minimum Insurance will be increased to the amount of self-insurance which Lessor maintains from time to time during the term of this Lease. At such time as Lessee discontinues the dog park and all other commercial activities whatsoever on the Premises other than those activities set forth in Paragraph 3(a) above, Lessee shall be allowed to reduce the amounts of the Combined Single Limit of the Minimum Insurance to the amounts which Lessee carries from time to time upon its general liability insurance policies.

(b) All of the aforementioned insurance shall be placed with an insurance company whose financial condition and policy forms are acceptable to Lessor, and so long as Lessee maintains a dog park or any commercial activity whatsoever on the Premises shall name Lessor as an additional insured party, and shall be endorsed to cover the liability assumed by Lessee under the provisions of this lease. The endorsement shall be worded substantially as follows:

"During the effective period of the policies referenced herein, it is agreed that this insurance specifically covers liability assumed by the insured under the provisions of a certain agreement entered into by the insured and the Georgia Power Company, dated March __, 2010."

(c) Lessee shall further carry, at Lessee's sole cost and expense, all-risk hazard insurance for the full replacement value of all improvements, less and except electrical transmission and distribution facilities, located on the Premises. Such insurance shall be in the name of Lessor and Lessee as their interests may appear.

(d) So long as Lessee maintains a dog park or any commercial activity whatsoever on the Premises, each of the above required policies shall name Lessor as an additional insured, and shall be endorsed with a provision whereby the insurance company shall notify Lessor ten (10) days prior to the effective date of cancellation or material change in any of the said policies. As evidence of this insurance and prior to Lessee's occupancy of the Premises, Lessee shall submit to

Lessor a certificate providing the above coverage which certifies that the said policies have been properly endorsed to meet all requirements set forth herein.

To the extent of the insurance required to be maintained by Lessee (but in no event in excess of the fullest extent permitted under O.C.G.A. Section 13-8-2), Lessee hereby releases Lessor, its agents and employees from any liability for damage to property or injury to persons, regardless of the cause of such damage or injury. Except as provided in the sentence immediately preceding this sentence, the waivers and indemnities in this lease shall not apply to damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of Lessor, its agents or employees to the extent O.C.G.A. Section 13-8-2 is applicable thereto. In no event shall the insurance requirements of this paragraph be deemed to limit the liability or responsibility of Lessee in any manner.

11. Nothing in this lease is intended to diminish any protection afforded either Lessor or Lessee by the provision of the Georgia Recreational Properties Act (O.C.G.A. Sections 51-3- 20 through 51-3-26) as from time to time amended. Lessor expressly intends and agrees that the provisions of O.C.G.A. Sections 51-3-22 and 51-3-23 shall apply to the duties and liability of Lessor. Lessee is a municipal corporation created under the laws of the state of Georgia and, by provision of the Constitution of the State of Georgia has been granted sovereign immunity from liability, unless the same is waived by action of the General Assembly of Georgia. Lessor and Lessee acknowledge the entering of this Lease, and performance of Lessee's duties hereunder, does not constitute a waiver of sovereign immunity of Lessee.

12. In the event Lessee shall default in the performance of any of its covenants contained in this lease and such default shall continue for thirty (30) days after written notice thereof has been given by Lessor to Lessee, then in such event, at Lessor's option:
(i) Lessor may terminate this lease by written notice to Lessee, in which event Lessee shall immediately surrender the Premises, and if Lessee fails to do so, Lessor may, without prejudice to any other right or remedy which Lessor may have, enter upon and take possession of the Premises (by force, summary proceedings, ejectment or otherwise) and remove Lessee without being liable for prosecution or any claim for damages therefor, and Lessee hereby waives its rights to any legal proceedings in connection with such reentry.
(ii) Lessor may take any other action permitted by law.

13. Lessee assumes and shall pay any additional tax or license fee that may be assessed against the Premises as a result of the use thereof by Lessee. Ad valorem taxes assessed against the Premises shall be paid by Lessor. Ad valorem taxes assessed against any improvements shall be paid by Lessee.

14. All notices, demands, requests, consents, and approvals desired, necessary, required or permitted to be given pursuant to the terms of this lease shall be in writing and shall be deemed to have been properly given if personally delivered or sent, postage prepaid, by first class registered or certified United States mail, return receipt requested, addressed to each party hereto at the following address:

Lessee: City Manager
City of Sandy Springs, Georgia
7840 Roswell Road, Suite 500
Sandy Springs, Georgia 30350

Lessor: Georgia Power Company
Attention: Land Management Manager
BIN 10151
15th Floor
241 Ralph McGill Boulevard
Atlanta, Georgia 30308-3374

or at such other address in the United States as Lessee or Lessor may from time to time designate by like notice. Any such notice, demand, request or other communication shall be considered given or delivered, as the case may be, on the date of personal delivery or on the date of deposit in the United States mail as provided above. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand, request or other communication.

15. This lease shall create a landlord-tenant relationship between the parties hereto and no estate shall pass out of Lessor. Lessee has only a usufruct, not subject to levy and sale, and not assignable by Lessee except with Lessor's prior written consent.

16. No failure of Lessor to exercise any power given to Lessor hereunder, or to insist upon strict compliance by Lessee with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of Lessor's right to demand exact compliance with the terms hereof.

17. In the event any one or more of the provisions contained in this lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this lease shall be continued as if such invalid, illegal, or unenforceable provisions had never been contained herein.

18. This lease contains the entire agreement of the parties hereto and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. This lease may not be modified except by an amendment signed by both Lessor and Lessee.

19. Time is of the essence in this lease. This lease shall be governed by the laws of the State of Georgia. No remedy conferred upon or reserved to Lessor in this lease, at law or in equity is intended to be exclusive of any other available remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given in this lease or now or hereafter existing in law or in equity.

20. Lessee's rights hereunder shall be subject to any mortgage, indenture or deed to secure debt which is now, or may hereafter be, placed upon the Premises by Lessor.

21. Upon the termination or expiration of the term of this lease, Lessee shall vacate the Premises and surrender the Premises to Lessor in as good order and condition as on the date hereof, reasonable wear and tear excepted.

22. Lessee hereby agrees and covenants not to use, and will prohibit agents, employees and contractors of Lessee from using, any tools, equipment or machinery within ten (10) feet of Lessor's overhead conductors located on or in the vicinity of the Premises. Lessee agrees to comply with Official Code of Georgia Section 46-3-30 et seq. (HIGH VOLTAGE SAFETY

ACT), and the Rules and Regulations of the State of Georgia Section 300-3-7.01 et seq. Lessee further agrees to notify any contractors that may be employed by Lessee of the existence of said code sections and regulations, and to require that all work be performed in compliance with said code sections and regulations by including same as a requirement in any contract let as a result of said bid. Lessee further agrees and covenants to warn all persons whom Lessee knows or should reasonably anticipate for any reason may conduct any activity whatsoever on or in the vicinity of the Premises of the fact that such conductors are (a) electrical conductors, (b) energized, (c) uninsulated, and (d) dangerous.

23. If the whole of the Premises, or such portion thereof as will make the Premises unusable for the purposes herein leased, is condemned by any legally constituted authority, or conveyed to such authority in lieu of such condemnation, then in either of said events, the term of this lease shall end on the date when possession thereof is taken by the condemning authority, and rental shall be accounted for between Lessor and Lessee as of such date. In the event any portion of the Premises is taken by condemnation or a conveyance in lieu thereof (other than as set forth in the preceding sentence), at Lessee's option, by written notice to Lessor within thirty (30) days following such condemnation or conveyance in lieu thereof, Lessee shall either (i) terminate this lease, or (ii) if the Premises may still be used for Lessee's intended use therefor, elect to continue this lease and reduce the rent in proportion to the portion of the Premises so taken. In the event of any such taking of all or any portion of the Premises or conveyance in lieu thereof, Lessor shall be entitled to all compensation which may be paid or made in connection therewith, and Lessee shall have no claim for the value of the unexpired leasehold, and hereby assigns to Lessor any right Lessee may have to participate in any award paid on account of any such taking. Lessee shall, however, be permitted to pursue a claim for improvements placed on the Premises at Lessee's sole cost and expense, provided that such claim shall not reduce or diminish Lessor's award.

24. Upon termination or expiration of the term of this lease, Lessee shall remove all improvements and personal property which it owns and has placed in or on the Premises; provided, however, that Lessee repairs all damage to the Premises caused by such removal, thereby restoring the Premises to as good order and condition as on the date hereof, reasonable wear and tear excepted. All property of Lessee remaining in the Premises after expiration of the term or earlier termination of this lease shall be deemed conclusively abandoned and may be removed by Lessor and disposed of by Lessor or, at Lessor's option, retained by Lessor for Lessor's own account, without compensation to Lessee, and Lessee shall reimburse Lessor for the cost of removing and disposing of the same.

25. This lease may be simultaneously executed in several counterparts, and all such counterparts shall constitute but one and the same instrument.

26. Lessee shall place no advertising signs upon the Premises. Any and all signs placed on the Premises by Lessee shall be maintained in compliance with the applicable local, city, county, state or federal statutes, ordinances, laws, rules and regulations governing such signs. Lessee shall be responsible to Lessor for any damage caused by the installation, use or maintenance of said signs, and Lessee agrees upon removal of said signs to repair all damage incident to such removal.

Lessee shall post signs throughout the Premises that ingress or egress from the river for any activity is to occur at the Department of Natural Resources boat ramp. Lessee shall post signs at the boat ramp stating, "Caution: Water Level Subject To Rise Without Warning". Lessee shall be

responsible for traffic control and enforcement on the Premises, including without limitation the posting of "No Parking" signs along Morgan Falls Road.

27. In the event Lessee remains in possession of the Premises after termination or expiration of the term of this lease, without any express agreement of the parties, Lessee shall be a tenant at sufferance, and otherwise upon the terms and conditions set forth in this lease. In the event Lessee remains in possession of the Premises after termination or expiration of the term of this lease, with Lessor's consent, then, except as expressly otherwise provided in Lessor's consent, Lessee shall be a tenant at sufferance, and the other terms and conditions set forth in this lease shall apply.

28. 'Lessor" as used in this lease shall include Lessor, its representatives, assigns, and successors in title to the Premises. "Lessee" shall include Lessee, its representatives, and if this lease shall be validly assigned in accordance with the provisions of this lease, shall include also Lessee's assigns or successors under this lease. "Lessor" and "Lessee" include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

29. If any rent or other debt owing by Lessee to Lessor hereunder is collected by or through an attorney-at-law, or if Lessor uses the services of any attorney in order to secure compliance with any other provisions of this lease, to recover damages for any breach or default of any other provisions of this lease, or to terminate this lease or evict Lessee, Lessee shall reimburse Lessor upon demand for any and all attorney's fees and expenses so incurred by Lessor.

30. Lessor expressly retains unto itself, its successors and assigns, for the benefit of Lessor, its successors, assigns and such others (such as but not limited to Lessor's agents, contractors, subcontractors, licensees and permittees) as Lessor shall from time to time designate, the right and easement to install, construct, reconstruct, replace, improve, upgrade, enhance, maintain, operate, use, repair, add on to, demolish, and remove the transmission, distribution and communications lines currently crossing the Property as well to access such transmission, distribution and communications lines. In addition, Lessor hereby retains unto itself, its successors and assigns, for the benefit of Lessor, its successors, assigns and such others (such as but not limited to Lessor's agents, contractors, subcontractors, licensees and permittees) as Lessor shall from time to time designate, the rights, interests and easements from time to time and at any time, upon, over, across and under the Premises (i) to construct, install, use, patrol, obtain access to, operate, maintain, repair, inspect, renew, rebuild, reconstruct, replace, improve, upgrade, enhance and add onto overhead and underground electric transmission and distribution lines, poles, towers, frames, manholes, conduits, fixtures, appliances, wires, cables and equipment, and protective wires and devices, and communications lines, cables and equipment (including, without limitation, "Communications Facilities" as hereinafter defined); and (ii) to construct, install, use, patrol, obtain access to, operate, maintain, repair, inspect, renew, rebuild, reconstruct, replace, improve, upgrade, enhance and add onto additional transmission, distribution, and communications lines, poles, towers, frames, manholes, conduits, fixtures, appliances, wires, cables and equipment, and protective wires and devices, including, without limitation, Communications Facilities ["Communications Facilities" shall mean (x) equipment, systems or facilities used for or in connection with communications by radio, including without limitation, microwave towers, mobile base radio towers, radio base repeater towers, telemeter transmitters, multiple address system radios or power line carrier equipment, and any permits, licenses or leases relating to any one or more of the foregoing, and (y) equipment, systems or facilities used for or in connection with light wave communications over optical fibers, including without limitation, optical fibers, optronic or photo-optronic equipment, repeaters, junctions, splice enclosures or equipment for the

conversion of light signals to or from radio or electronic signals, and any permits, licenses or leases relating to any one or more of the foregoing], and, in addition to and not in limitation of the foregoing, the terms and provisions of the form of Easement for Right-of-Way attached hereto as Exhibit "B" and by reference made a part hereof shall apply to such easements as if "Lessor" referred to Lessor and "the Undersigned" referred to Lessee, and with such changes as may be necessary to reflect that such easements were reserved by Lessor rather than granted by Lessee.

31. To the extent allowed by law, Lessee agrees to indemnify, defend, and hold harmless Lessor from any and all liability resulting from any claim or lawsuit occurring on or from use of the Premises.

30. That certain Lease Agreement entered into on March 8, 2007, as amended, is hereby terminated and cancelled, effective as of January 1, 2011, for all purposes and in all respects, except for those provisions which expressly survive a termination, as if January 1, 2011, had been the natural termination date of such Lease Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, the day and year first above written.

Signed, sealed and delivered in the presence of:

LESSEE:
CITY OF SANDY SPRINGS, GEORGIA

_____
Witness

By: _____ (SEAL)
Name: _____
Title: _____

_____
Notary Public

(NOTARIAL SEAL)

My Commission Expires:

Signed, sealed and delivered in the presence of:

LESSOR:
GEORGIA POWER COMPANY

_____
Witness

BY: _____
Name: Walter Dukes
Title: Vice-President -Land

_____
Notary Public

Exhibit "A"

Land

Exhibit "B"

Form Transmission Easement

Acct No. _____ Draft No. _____ R.C. No. _____

EASEMENT FOR RIGHT-OF-WAY

STATE OF GEORGIA,

_____ COUNTY.

For and in consideration of the sum of _____ ($_____) Dollars, in hand paid by GEORGIA POWER COMPANY, a Georgia corporation (hereinafter referred to as "Georgia Power," which term shall include successors and assigns), the receipt and sufficiency of which is hereby acknowledged,_____ (hereinafter referred to as "the Undersigned," which term shall include heirs, successors and assigns), whose Post Office address is _____ _____does hereby grant to Georgia Power the rights to, from time to time, construct, operate, maintain, renew and rebuild overhead and underground electric transmission, distribution and communication lines, together with necessary or convenient towers, frames, poles, wires, manholes, conduits, fixtures, appliances, and protective wires and devices in connection therewith (all being hereinafter referred to as "the Facilities") upon or under a tract of land being more fully located and described below (hereinafter referred to as "the Premises"), together with the right of Georgia Power to grant, or permit the exercise of, the same rights, either in whole or in part, to others, and said rights are granted to Georgia Power together with all rights, privileges and easements necessary or convenient for the full enjoyment and use of the Premises for the purposes above described, including the right of ingress and egress to and from the Premises over lands of the Undersigned and the right to cut away and keep clear, remove and dispose of all trees and undergrowth and to remove and dispose of all obstructions now on the Premises or that may hereafter be placed on the Premises by the Undersigned or any other person. Further, Georgia Power shall have the right to cut, remove and dispose of dead, diseased, weak or leaning trees (hereinafter referred to as "danger trees") on lands of the Undersigned adjacent to the Premises which may now or hereafter strike, injure, endanger or interfere with the maintenance and operation of any of the Facilities located on the Premises, provided that on future cutting of such danger trees Georgia Power shall pay to the Undersigned the fair market value of the merchantable timber so cut, timber so cut to become the property of Georgia Power. The Undersigned shall notify Georgia Power of any party with whom it contracts, and who owns as a result thereof, any danger trees to be cut as set forth above. Georgia Power shall also have, and is hereby granted, the right to install, maintain and use anchors or guy wires on lands of the Undersigned adjacent to the Premises, and the right, when required by law or government regulations, to conduct scientific or other studies, including but not limited to environmental and archaeological studies, on or below the ground surface of the Premises.

The Premises are shown on a plat made by or for Georgia Power, and on file in Georgia Power's Land Department, and are as described as follows:

Georgia Power shall pay or tender to the Undersigned or owner thereof a fair market value for any growing crops, fruit trees or fences cut, damaged or destroyed on the Premises by employees of Georgia Power and its agents, in the construction, reconstruction, operation and maintenance of the Facilities, except those crops, fruit trees and fences which are an obstruction to the use of the Premises as herein provided or which interfere with or may be likely to interfere with or endanger the Facilities or their proper maintenance and operation, provided the Undersigned shall give Georgia Power written notice of the alleged damage within thirty (30) days after the alleged damage shall have been done. The Undersigned shall notify Georgia Power of any party with whom the Undersigned contracts and who owns, as a result thereof, any growing crops, fruit trees or fences; and the Undersigned shall inform said party of the notification provision set forth herein. Any growing crops, fruit trees or fences so cut or damaged on the Premises in the construction, reconstruction, operation and maintenance of the Facilities are to remain the property of the owner thereof.

It is agreed that part of the within named consideration is in full payment for all timber cut or to be cut in the initial clearing and construction of the Facilities and that timber so cut is to become the property of Georgia Power. The Undersigned will notify Georgia Power in the event the Undersigned has contracted with another party who owns as a result thereof the timber to be so cut.

The Undersigned has the right to use the Premises for agricultural or any other purposes not inconsistent with the rights hereby granted, provided such use shall not injure or interfere with the proper operation, maintenance, repair of, extensions or additions to the Facilities; and provided further that no buildings or structures other than fences (which shall not exceed eight (8) feet in height and shall neither obstruct nor otherwise interfere with any of the rights granted to Georgia Power hereby) may be erected upon the Premises.

The Undersigned expressly grants to Georgia Power the right to take any action, whether at law or in equity, and whether by injunction, ejectment or other means, to prevent the construction, or after erection thereof to cause the removal, of any building or other structure(s) located on the Premises (other than fences as provided for herein), regardless of whether the offending party is the Undersigned or not. The undersigned will notify Georgia Power in the event the Undersigned contracts with a third party who owns, as a result thereof, any buildings or other such structures. The Undersigned acknowledges and agrees that said rights are necessary for the safe and proper exercise and use of the rights, privileges, easements and interests herein granted to Georgia Power.

Georgia Power shall not be liable for or bound by any statement, agreement or understanding not expressed herein.

TO HAVE AND TO HOLD forever unto Georgia Power the rights, privileges, easements, powers, and interests granted herein, which shall be a covenant running with the title to the Premises.

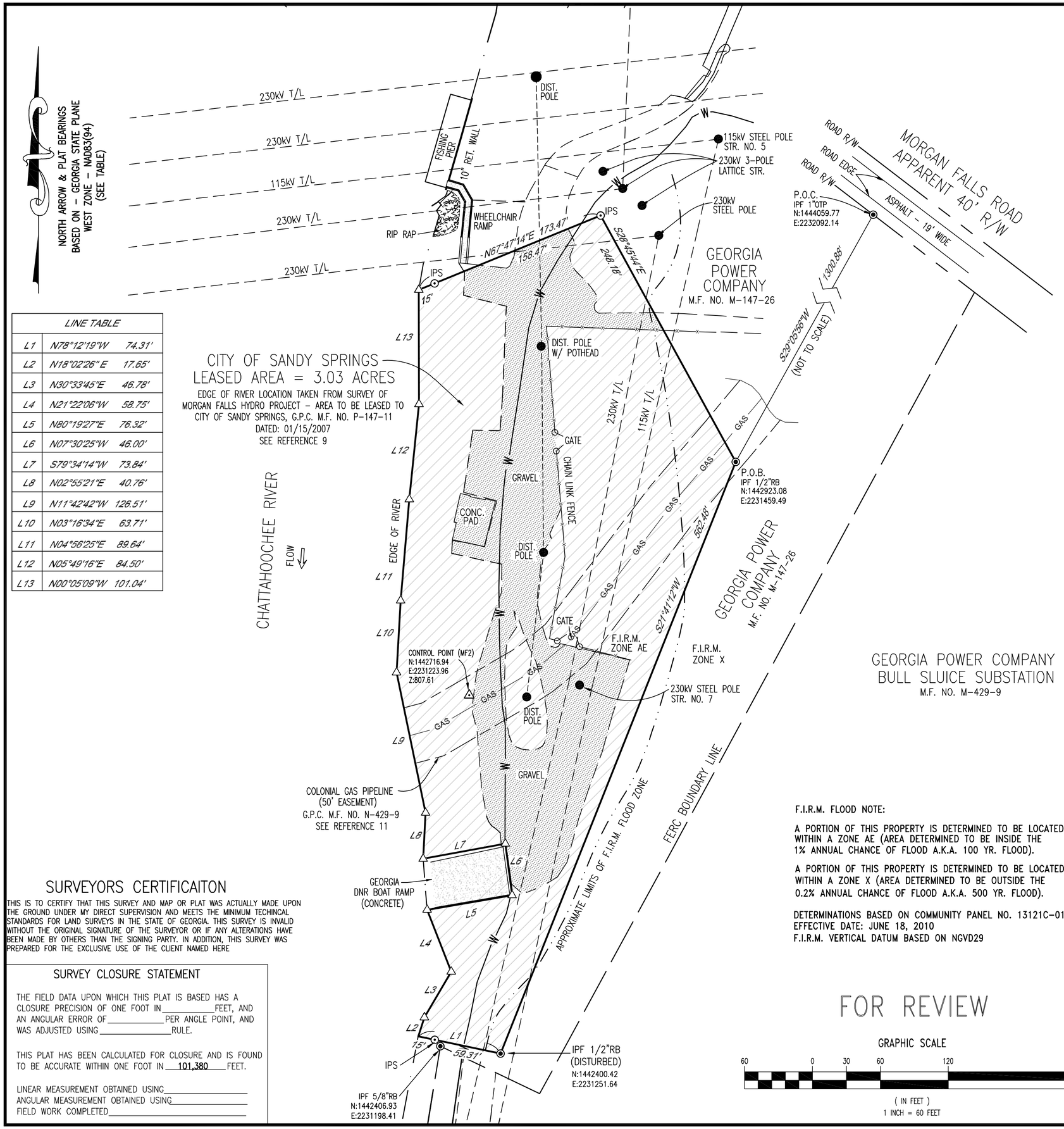
The Undersigned warrants and will forever defend the title to the rights, privileges and easements granted herein to Georgia Power against the claims of all persons whatsoever.

IN WITNESS WHEREOF, the Undersigned _____ hereunto set _____ hand(s) and seal(s), this _____ day of _____, 19___.

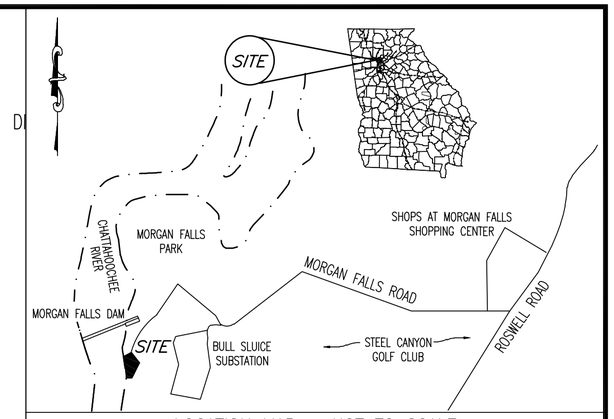
Signed, sealed and delivered in the presence of:

_____ _____(SEAL)
Witness

_____ _____(SEAL)
Notary Public



LINE TABLE		
L1	N78°12'19"W	74.31'
L2	N18°02'26"E	17.65'
L3	N30°33'45"E	46.78'
L4	N21°22'06"W	58.75'
L5	N80°19'27"E	76.32'
L6	N07°30'25"W	46.00'
L7	S79°34'14"W	73.84'
L8	N02°55'21"E	40.76'
L9	N11°42'42"W	126.51'
L10	N03°16'34"E	63.71'
L11	N04°56'25"E	89.64'
L12	N05°49'16"E	84.50'
L13	N00°05'09"W	101.04'



LOCATION MAP – NOT TO SCALE

UTILITY LEGEND

- GAS MANHOLE
- GAS VALVE
- GAS METER
- SANITARY SEWER MANHOLE
- STORM SEWER MANHOLE
- WATER MANHOLE
- WATER VALVE
- FIRE HYDRANT
- POWER POLE
- TRANSMISSION TOWER
- GUY WIRE

MAP LEGEND

- LEASED AREA
- COMMON AREA (WITHIN LEASED AREA)

MONUMENTATION LEGEND

- IRON PIN SET
- IRON PIN FOUND
- MONUMENT FOUND
- COMPUTED POINT
- CP1 TR1 CONTROL OR TRAVERSE POINT
- GEODETIC CONTROL POINT
- CALCULATED POINT ON SANDY SPRINGS LEASE LOT BOUNDARY

PLAT ABBREVIATIONS

IPF – IRON PIN FOUND
IPS – IRON PIN SET
OTP – OPEN TOP PIPE
CTP – CRIMP TOP PIPE
P/L – PROPERTY LINE
R/W – RIGHT OF WAY
C/L – CENTERLINE
T/L – TRANSMISSION LINE
N/F – NOW OR FORMERLY
DB – DEED BOOK
PB – PLAT BOOK
M.F. – MAP FILE NO.
P.O.C.– POINT OF COMMENCEMENT
P.O.B.– POINT OF BEGINNING
DNR – DEPARTMENT OF NATURAL RESOURCES
G.P.C. – GEORGIA POWER COMPANY
D.F. – DEED FILE

REFERENCES:

1. PLAT OF PROPERTY FOR: POWER HOUSE AND DAM SITE
G.P.C. M.F. D-21-J, DATED: MAY 4, 1903.
2. EASEMENT AGREEMENT BETWEEN ATLANTA WATER AND ELECTRIC POWER COMPANY AND GEORGIA RAILWAY AND POWER COMPANY
RECORDED IN D.B. 339, PAGE 42, DATED: MARCH 20, 1912.
3. MORGAN FALLS PROJECT – PROPERTY DETAIL MAP (EXHIBIT K)
G.P.C. M.F. M-147-26 (SHEET 1 OF 3), DATED: JULY 1957
REVISED: MARCH 27, 1961.
4. MORGAN FALLS DEVELOPMENT PROPERTY
LANDS LEASED TO FULTON COUNTY, G.PC. M.F. M-147-30
DATED: JULY 23, 1971.
5. WARRANTY DEED BETWEEN: GEORGIA POWER COMPANY (GRANTOR) AND THE STATE OF GEORGIA (GRANTEE)
RECORDED IN D.B. 5709, PAGE 349, FULTON COUNTY DEEDS AND RECORDS.
DATED: JULY 20, 1972.
6. EASEMENT AGREEMENT BETWEEN GEORGIA POWER COMPANY (GRANTOR) AND FULTON COUNTY (GRANTEE) FOR WATERLINE EASEMENT.
G.P.C. D.F. 1523-66, DATED: 2/19/1975
7. EASEMENT FOR PIPELINE FROM FULTON COUNTY TO COLONIAL PIPELINE COMPANY. RECORDED IN D.B. 6961, PAGE 271-272, DATED: MAY 19, 1978.
8. BULL SLUICE SUBSTATION ROUTING PLAN
G.P.C. M.F. M-177-5
9. PROPERTY PLAT OF: GEORGIA POWER COMPANY
LANDS AT MORGAN FALLS DAM, G.P.C. M.F. N-395-18
DATED: JULY 8, 1988.
10. PROPERTY PLAT OF: BULL SLUICE 500/230/115kV SUBSTATION
G.P.C. M.F. N-429-9, DATED: JULY 26, 1989.
11. TOPOGRAPHIC MAP OF: BULL SLUICE 500/230/115kV SUBSTATION
G.P.C. M.F. M-144-14, DATED: 1989.
12. MORGAN FALLS HYDRO PROJECT
AREA TO BE LEASED TO CITY OF SANDY SPRINGS
G.P.C. M.F. P-147-11, DATED: JANUARY 15, 2007.
13. MORGAN FALLS TAILRACE TOPOGRAPHIC MAP
G.P.C. M.F. P-97-3, DATED: DECEMBER 14, 2007.

NOTES:
1. ALL IRON PINS SET ARE 1/2" REBAR WITH ORANGE PLASTIC CAP MARKED: XXXXXXX
2. 1' WATERLINE EASEMENT LOCATION BASED ON G.P.C. M.F. NO. N-429-9 (NOT SHOWN) SEE REFERENCE 6

F.I.R.M. FLOOD NOTE:

A PORTION OF THIS PROPERTY IS DETERMINED TO BE LOCATED WITHIN A ZONE AE (AREA DETERMINED TO BE INSIDE THE 1% ANNUAL CHANCE OF FLOOD A.K.A. 100 YR. FLOOD).

A PORTION OF THIS PROPERTY IS DETERMINED TO BE LOCATED WITHIN A ZONE X (AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE OF FLOOD A.K.A. 500 YR. FLOOD).

DETERMINATIONS BASED ON COMMUNITY PANEL NO. 13121C-0134-F
EFFECTIVE DATE: JUNE 18, 2010
F.I.R.M. VERTICAL DATUM BASED ON NGVD29

SURVEYORS CERTIFICAITON

THIS IS TO CERTIFY THAT THIS SURVEY AND MAP OR PLAT WAS ACTUALLY MADE UPON THE GROUND UNDER MY DIRECT SUPERVISION AND MEETS THE MINIMUM TECHINCAL STANDARDS FOR LAND SURVEYS IN THE STATE OF GEORGIA. THIS SURVEY IS INVALID WITHOUT THE ORIGINAL SIGNATURE OF THE SURVEYOR OR IF ANY ALTERATIONS HAVE BEEN MADE BY OTHERS THAN THE SIGNING PARTY. IN ADDITION, THIS SURVEY WAS PREPARED FOR THE EXCLUSIVE USE OF THE CLIENT NAMED HERE

SURVEY CLOSURE STATEMENT

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN _____ FEET, AND AN ANGULAR ERROR OF _____ PER ANGLE POINT, AND WAS ADJUSTED USING _____ RULE.

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 101,380 FEET.

LINEAR MEASUREMENT OBTAINED USING _____
ANGULAR MEASUREMENT OBTAINED USING _____
FIELD WORK COMPLETED _____

FOR REVIEW

GRAPHIC SCALE

60 0 30 60 120 240

(IN FEET)
1 INCH = 60 FEET

NO.	DATE	BY	REVISIONS

APPROVALS

GEORGIA POWER CO., ATLANTA, GA.
Land Department

BOUNDARY SURVEY OF
AREA TO BE LEASED TO CITY OF SANDY SPRINGS
MORGAN FALLS HYDRO PROJECT

LAND LOTS 84, 17TH DISTRICT, CITY OF SANDY SPRINGS, FULTON COUNTY, GEORGIA

DR. DG/SNA	TR.	DATE 08/05/2011
SCALE 1" = 60'		Checked
DRAWING NUMBER		

T:\Working2\landmgt\2011\3127 Morgan Falls_FERC Boundary\working drawings\2007-11043 - GPC - Morgan Falls_Sandy Springs Lease.dwg, BNDRY, tparker, Aug 05, 2011 - 9:51:02am

RESOLUTION NO. _____

STATE OF GEORGIA

COUNTY OF FULTON

A RESOLUTION TO AUTHORIZE AND APPROVE AN AMENDMENT TO THE LEASE AGREEMENT BETWEEN GEORGIA POWER COMPANY AND THE CITY OF SANDY SPRINGS, DATED MARCH 8, 2007, FOR 3.5 ACRES LOCATED BELOW THE MORGAN FALLS DAM KNOWN AS "RIVER PARK"

WHEREAS, the City of Sandy Springs (the "City") currently leases 3.5 acres of land located below the Morgan Falls Dam located in Land Lot 84, 17th District, Fulton County, Georgia, known as "River Park" (the "Property"), as more particularly described in that certain Lease Agreement between Georgia Power Company and the City of Sandy Springs dated March 8, 2007 (the "Lease"); and

WHEREAS, the City has used the Property for river access and other leisure activities for the past four (4) years; and

WHEREAS, portions of the Property are being used temporarily by the City as a dog park but, pursuant to the terms of the Lease, such use shall terminate on or before December 31, 2011 unless the City requests Georgia Power Company's consent to continued use as a dog park by written notice no later than November 30, 2011; and

WHEREAS, the City desires to continue to allocate portions of the Property as a dog park beyond December 31, 2011; and

WHEREAS, in order to effectuate the City's continued use of portions of the Property as a dog park, the City must enter into an amendment to the Lease in the form attached hereto as Exhibit "A", effective January 1, 2011 (the "Amended Lease");

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDY SPRINGS, **GEORGIA,** that:

1. The City Manager or his designee is authorized to submit a request to Georgia Power Company to consent to the City's continued use of portions of the Property as a dog park beyond December 31, 2011, subject to the terms and conditions set forth in subparagraph (c) of paragraph 3 of the Amended Lease, and to take such other action as may be necessary to effectuate the purposes of this Resolution;
2. The Mayor is authorized to execute the Amended Lease attached to this Resolution as Exhibit "A", and to take such other action as may be necessary to effectuate the purposes of this Resolution

APPROVED AND ADOPTED, this the _____ day of _____, 2011.

_____
Eva Galambos, Mayor

Attest:

_____
Michael, City Clerk
(Seal)

EXHIBIT “A”

AMENDED LEASE