

**EXHIBIT "B"**  
**DEED RESTRICTIONS**

WHEREAS, The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended ("Stafford Act"), identifies the use of disaster relief funds including the acquisition and relocation of structures in the floodplain;

WHEREAS, DeKalb County (Grantor) has entered into a cooperative grant agreement with the Georgia Emergency Management Agency and the City of Brookhaven (Grantee) agrees to these conditions in order to protect and preserve natural floodplain values herein incorporated by reference;

Now, THEREFORE, the Grantor, for and in consideration of the opportunity to participate in the FEMA funded acquisition project, does voluntarily transfer and convey through quit claim deed to City of Brookhaven in perpetuity over the following properties situated in the DeKalb, County, State of Georgia and described in the attached Exhibit A.

1. Terms: Pursuant to the terms of the Hazard Mitigation Assistance statutory authorities, Federal program requirements consistent with 44 C.F.R. Part 80, and the Grant Agreement, the following conditions and restrictions shall apply in perpetuity to the properties described in the attached Exhibit A and acquired by the Grantor pursuant to FEMA program requirements concerning the acquisition of property for open space:
  - a. Compatible uses. The Property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: parks for outdoor recreational activities; wetlands management; nature reserves; cultivation; grazing; camping (except where adequate warning time is not available to allow evacuation); unimproved, unpaved parking lots; buffer zones; and other uses consistent with FEMA guidance for open space acquisition, Hazard Mitigation Assistance Requirements for Property Acquisition and Relocation for Open Space.
  - b. Structures. No new structures or improvements shall be erected on the Property other than:
    - i. A public facility that is open on all sides and functionally related to a designated open space or recreational use;
    - ii. A public rest room; or
    - iii. A structure that is compatible with open space and conserves the natural function of the floodplain, including the uses described in Paragraph 1.a., above, and approved by the FEMA Administrator in writing before construction of the structure begins.

Any improvements on the Property shall be in accordance with proper floodplain management policies and practices. Structures built on the Property according to paragraph b. of this section shall be flood proofed or elevated to at least the base flood level plus 1 foot of freeboard, or greater if required by FEMA, or if required by any State, Tribal, or local ordinance, and in accordance with criteria established by the FEMA Administrator.

- c. Disaster Assistance and Flood Insurance. No Federal entity or source may provide disaster assistance for any purpose with respect to the Property, nor may any application for such assistance be made to any Federal entity or source. The Property is not eligible for coverage under the NFIP for damage to structures on the property occurring after the date of the property settlement, except for pre-existing structures being relocated off the property as a result of the project.
- d. Transfer. The City of Brookhaven including successors in interest, shall convey any interest in the Property only if the FEMA Regional Administrator, through the State, gives prior written approval of the transferee in accordance with this paragraph.
  - i. The request by the City of Brookhaven through the State, to the FEMA Regional Administrator must include a signed statement from the proposed transferee that it acknowledges and agrees to be bound by the terms of this section, and documentation of its status as a qualified conservation organization if applicable.
  - ii. The City of Brookhaven may convey a property interest only to a public entity or to a qualified conservation organization. However, the Grantee may convey an easement or lease to a private individual or entity for purposes compatible with the uses described in paragraph (a), of this section, with the prior approval of the FEMA Regional Administrator, and so long as the conveyance does not include authority to control and enforce the terms and conditions of this section.
  - iii. If title to the Property is transferred to a public entity other than one with a conservation mission, it must be conveyed subject to a conservation easement that shall be recorded with the deed and shall incorporate all terms and conditions set forth in this section, including the easement holder's responsibility to enforce the easement. This shall be accomplished by one of the following means:
    - a) The City of Brookhaven shall convey, in accordance with this paragraph, a conservation easement to an entity other than the title holder, which shall be recorded with the deed, or
    - b) At the time of title transfer, the Grantee shall retain such conservation easement, and record it with the deed.
  - iv. Conveyance of any property interest must reference and incorporate the original deed restrictions providing notice of the conditions in this section and must incorporate a provision for the property interest to revert to the State, Tribe, or local government in the event that the transferee ceases to exist or loses its eligible status under this section.
2. Inspection. FEMA, its representatives and assigns including the State or Tribe shall have the right to enter upon the Property, at reasonable times and with reasonable notice, for the purpose of inspecting the Property to ensure compliance with the terms of this part, the Property conveyance and of the grant award.
3. Monitoring and Reporting. Every three years, in coordination with any current successor in interest, the City of Brookhaven shall submit through the State to the FEMA Regional Administrator a report certifying that the Grantee has inspected the Property within the month preceding the report, and that the Property continues to be maintained consistent with the provisions of 44 C.F.R. Part 80, the

property conveyance, and the grant award.

4. Enforcement. The City of Brookhaven, the State, FEMA, and their respective representatives, successors and assigns, are responsible for taking measures to bring the Property back into compliance if the Property is not maintained according to the terms of 44 C.F.R. Part 80, the property conveyance, and the grant award. The relative rights and responsibilities of FEMA, the State, the Grantee, and subsequent holders of the property interest at the time of enforcement, shall include the following:
  - a. The State will notify the City of Brookhaven and any current holder of the property interest in writing and advise them that they have 60 days to correct the violation.
    - i. If the City of Brookhaven or any current holder of the property interest fails to demonstrate a good faith effort to come into compliance with the terms of the grant within the 60-day period, the State shall enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to bringing an action at law or in equity in a court of competent jurisdiction.
    - ii. FEMA, its representatives, and assignees may enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to 1 or more of the following:
      - a) Withholding FEMA mitigation awards or assistance from the State or Tribe, and Grantee; and current holder of the property interest.
      - b) Requiring transfer of title. The City of Brookhaven or the current holder of the property interest shall bear the costs of bringing the Property back into compliance with the terms of the grant; or
      - c) Bringing an action at law or in equity in a court of competent jurisdiction against any or all of the following parties: the State, the Tribe, the local community, and their respective successors.