

RESOLUTION NO. 30956

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO COLLECTIVELY WITH HAMILTON COUNTY ENTER INTO A COMMERCIAL/PUBLIC RECREATION LICENSE AGREEMENT WITH THE TENNESSEE VALLEY AUTHORITY, IN SUBSTANTIALLY THE FORM ATTACHED, FOR APPROXIMATELY FIVE POINT SEVEN (5.7) ACRES OF TVA LAND ON CHICKAMAUGA DAM RESERVATION ON NICKAJACK RESERVOIR, FOR THE OPERATION AND MAINTENANCE OF PUBLIC RECREATIONAL FACILITIES RELATED TO THE EXISTING OPERATION OF THE TENNESSEE RIVERPARK.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing the Mayor or his designee to collectively with Hamilton County enter into a commercial/public recreation License Agreement with the Tennessee Valley Authority, in substantially the form attached, for approximately 5.7 acres of TVA land on Chickamauga Dam Reservation on Nickajack Reservoir, for the operation and maintenance of public recreational facilities related to the existing operation of the Tennessee Riverpark.

ADOPTED: November 30, 2021

/mem

Commercial/Public Recreation License Agreement

Contract (RLR) No. 4013726

Tract No. CR-1418 Acq. Tract
(Formally XTCR-
176RE)

A. Date Agreement Signed: _____ B. Period of Occupancy to begin: July 25, 2021

Hamilton County, Tennessee and the City of

C. Name of Licensee: Chattanooga, Tennessee Email: tlamb@hamiltontn.gov/jbergdoll@chattanooga.gov

Address: 2277 N. Point Circle/101 E 11th Street Phone: 423-209-6888/423-643-6722

City, State, Zip: Hixson, TN 37343/Chattanooga, TN 37402 Alternate Phone: _____

D. Licensee is a: Government Corporation Partnership Individual
 Local State Federal Public Commercial

E. Description and Location of Premises:

The license premise includes approximately 5.7 acres of TVA land on Chickamauga Dam Reservation on Nickajack Reservoir, Acquisition Tract No. CR-1418 (formerly Tract XTCR-176RE), Tennessee River Mile 470.7L, Map 29D, Topo Map 112SW, in Hamilton County, Tennessee. Licensed area is shown on Exhibit Map.

F. License Area: Reservoir Nickajack
Land (Acres) 5.7 Harbor Limits (Acres) 0 Harbor Limits Rent Area (Acres) 0

G. Number of campsites: 0 No. of linear feet of marginal strip shoreline: 0

H. County: Hamilton Market Designation: Rural Micro Metro

I. Flood Risk Profile or 500-year flood elevation: 684

J. Permitted use of premises (continue on attachment if needed):

This license area shall be used solely for the operation and maintenance of public recreational facilities related to the existing operation of the Tennessee Riverpark. Current facilities include roads, parking areas, a launching ramp, and riprap.

K. Rent Method: Percent of Gross Revenues (PGR) Market Value (MV) Assessed value \$ NA
First year minimum rent amount \$ NA See Exhibit C, Payment Table for Details HHS

L. Rent Due Dates (Payable in Advance), (See Exhibit C, Payment Table): Quarterly Annual HHS

M. Minimum Rent Amount \$ NA Per _____ Beginning _____

N. Payment for initial period due at signing: \$ NA (see Exhibit C, Payment Table) HHS

O. Security Instrument Type: Letter of Credit Cash Deposit Other Amount \$ N/A

P. Liability Insurance Amount: \$ 1,000,000 per occurrence Provide by: See Provision 38

Commercial/Public Recreation License Agreement

Q. TVA Designated Representative: Heather Sellers, Recreation Agreement Specialist

Address: 4601 N. Access Road, Building B., Chattanooga, TN 37416

Telephone: 423-876-6736

Email: hmhamilt@tva.gov

This agreement, made and entered into as of the date first written above, by and between TENNESSEE VALLEY AUTHORITY (hereinafter called "TVA"), a corporation created by the Tennessee Valley Authority Act of 1933, and the party described in Section C above (hereinafter called "Licensee"), whose address is described in Section C above.

WITNESSETH

In consideration of the mutual provisions hereinafter stated, the parties hereto agree as follows:

1. TVA hereby grants to the Licensee a license to occupy and use, subject to all of the terms and conditions hereinafter stated, the premises described in Section E above for the purposes described in Section J above during the term of this agreement. Said premises are more specifically identified on the attached Exhibits A and B: HHS
2. In all matters relating to this license, the TVA designated representative, whose name and address appear in Section Q above, shall act for TVA, unless or until TVA shall designate a different representative or address.
3. The Licensee shall have the right, upon receipt of TVA's written approval of Licensee's plans, to dig; excavate; install pipe, wires and poles; cut, trim, and clear trees and brush; and destroy or otherwise dispose of such trees and brush and other obstructions, but only to the extent reasonable necessary to the occupancy and use of the premises for the purpose for which this license is granted.
4. The Licensee shall maintain the premises in as good condition as they were in when first entered upon pursuant to this license, ordinary wear and tear excepted, and damage caused by acts of God, civil commotion, or negligence of TVA excepted. If the Licensee shall fail to restore the premises to their original condition and to make any repairs or replacements required by this article, TVA may make such repairs or replacements, and in that event the Licensee shall reimburse TVA the full cost thereof within thirty (30) days after notice of payment therefor.
5. Either party may terminate this agreement at any time without regard to payment periods, by giving written notice to the other, specifying the date of termination, such notice to be given not less than 30 days before the date of termination. Any notice mailed, addressed to the Licensee at the address indicated herein, or delivered to the Licensee shall be notice hereunder by TVA. Any notice mailed or delivered to the TVA designated representative at the address indicated herein, unless and until TVA shall designate a different representative or address, shall be notice hereunder by the Licensee.
6. The Licensee shall have the right, during the period of this agreement, to make improvements, erect structures and install equipment in or upon the premises, only upon receipt of advance written approval from TVA's designated representative in Section Q above or designee, which approval is at TVA's sole discretion and need not be given. Such structures and equipment so placed in or upon or attached to the said premises shall be and remain the property of the Licensee and may be removed therefrom by the Licensee at any time prior to any termination of this agreement and within thirty (30) days after any termination of this agreement; provided that the Licensee shall, upon the removal of said structures and equipment, promptly repair any damage to the premises resulting from the erection, installation, or removal of said structures and equipment. Failure to remove such structures and equipment within thirty (30) days after any termination of this agreement shall constitute an abandonment of such structures and equipment, and TVA may retain such structures and equipment as its own or remove them at Licensee's expense. All property, structures, and equipment of the Licensee placed in or upon or attached to the premises shall be at the sole risk of the Licensee. No fill material may be placed on or removed from the premises without advance written approval from TVA's designated representative, which approval is at TVA's sole discretion and need not be given.

Commercial/Public Recreation License Agreement

7. The Licensee shall not, during its occupancy and use of the premises, reconstruct, relocate, or structurally alter any structure or fixed improvement upon the premises, unless such reconstruction, relocation, or structural alteration is made with the prior written approval of TVA, which approval is at TVA's sole discretion and need not be given.
8. TVA reserves the right to enter upon the premises for the purpose of inspecting the premises, conducting any operations or programs upon the premises that will not interfere with the continued use of the premises by the Licensee under the terms of this agreement, and going to and from any lands of TVA which adjoin the premises.
9. The Licensee's occupancy and use of the premises covered by this agreement are subject to, and the Licensee shall comply with, all applicable laws and governmental regulations and all rules and regulations prescribed by TVA with respect thereto. The Licensee shall promptly pay all ad valorem taxes which lawfully may be imposed upon its property on the premises.
10. All land-disturbing activities shall be conducted by the Licensee in accordance with best management practices to control erosion and sedimentation so as to prevent adverse water quality and related aquatic impacts in order to meet the requirements of Section 208 of the Clean Water Act and implementing regulations. Such practices shall be consistent with sound engineering and construction principles; applicable Federal, State, and local statutes, regulations, or ordinances; and proven techniques for controlling erosion and sedimentation. The Licensee shall do all in its power to prevent and suppress forest and grass fires upon or in the vicinity of the premises. The Licensee shall keep the premises at all times in a clean and sanitary condition. Licensee shall not permit or suffer any offensive or illegal activity on or use of the premises.
11. Licensee will control all emissions of pollutants that might be discharged or released directly or indirectly into the atmosphere, into any stream, lake, reservoir, watercourse, or surface or subterranean waters, or into or on the ground from any part of the premises, in full compliance with all applicable standards and requirements relating to pollution control of any kind now in effect or hereafter established by or pursuant to federal, state, or local statutes, ordinances, codes or regulations. Licensee shall indemnify, defend, and hold harmless USA and TVA from any and all claims, costs, or losses that may arise as a result of Licensee's breach of this provision. If there is a discharge or release of a hazardous substance, material or waste, or of any pollutant or other substance, in or from the premises by any person or entity other than TVA for which cleanup, remediation, restoration, removal, or other action (hereinafter, individually and collectively, referred to as "environmental response") is ordered or required pursuant to any federal, state, or local statute, regulation, or ordinance (including, without limitation, discharges or releases which spread or move in whole or in part beyond the premises to other areas owned by TVA), Licensee shall bear full responsibility for the cost (including, without limitation, natural resources damages and costs) of said environmental response, and shall not seek any contribution or indemnification from TVA for all or any portion of said costs; provided, however, that nothing in this paragraph is intended to or shall preclude Licensee from seeking indemnification or contribution from any other person or entity, and provided further that nothing herein shall create any rights in or be enforceable by any person or entity other than TVA, or its successors and assigns. No watercraft or floating structure equipped with a marine sanitation device (MSD) shall be moored in the licensed premises unless such MSD is in compliance with all applicable statutes and regulations.
12. The Licensee agrees to fully indemnify and hold the United States of America, TVA and its directors, officers, agents, and employees, harmless from and against any and all claims, demands, liability, losses, damage, costs, or expenses (including attorney's fees and other costs of defense), of any nature or kind whatsoever, arising out of or otherwise resulting from the Licensee's activities on the premises or the condition or use of the premises covered by this agreement, except liability for personal injuries, property damage, or loss of life or property caused by the sole negligence of TVA, its directors, officers, agents, or employees.
13. No assignment of this agreement or any interest herein shall be made or granted by Licensee without the prior written consent of TVA, which consent is at TVA's sole discretion and need not be given. For public entities such as cities, counties and states, refer to Paragraph 36 for further requirements. Licensee shall immediately notify TVA upon any sale, transfer, or conveyance, in whole or in part, of the private land currently owned by Licensee, if any, which adjoins the licensed premises. Any such whole or partial sale, transfer, or conveyance could result in certain changes to the terms and conditions of this license (e.g., size of harbor limits) or the termination of this license, depending upon the circumstances of such sale, transfer, or conveyance.

Commercial/Public Recreation License Agreement

14. The Licensee agrees that it does not, and shall not, claim at any time any interest or estate of any kind or extent whatsoever in the premises, by virtue of this license or its occupancy or use hereunder. Licensee further agrees that it will display and maintain a sign as provided or required by TVA at a location on the premises identified by TVA to remind the public that the premises are public land for commercial recreation.
15. TVA does not warrant or represent that the premises are safe, healthful, or suitable for the purposes for which they are permitted to be used under the terms of this agreement.
16. No member of or delegate to Congress or Resident Commissioner or any officer, employee, special Government employee, or agent of TVA shall be admitted to any share or part of this agreement or to any benefit that might arise therefrom, unless it be made with a corporation for its general benefit; nor shall the Licensee offer or give, directly or indirectly, to any officer, employee, special Government employee, or agent of TVA, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, except as provided in 5 C.F.R. Part 2635. Breach of this provision shall constitute a material breach of this agreement, and TVA shall have the right to exercise all remedies provided in this agreement or at law.
17. Any relocation or adjustment of Licensee's equipment or related facilities necessitated by TVA's activities during the term of this license shall be performed at the sole expense of the Licensee.
18. Licensee shall pay TVA interest, at a rate payable by TVA under Prompt Payment Act (31 U.S.C 3901-3906), on any overdue amount. Interest shall run from the date payment is due under this license until the date TVA receives payment or the date the remittance is postmarked, whichever is earlier. In addition to the interest charge for late payment, Licensee shall pay TVA an administrative fee currently fixed at Twenty-five Dollars (\$25) as a result of such late payment. Payment of interest and the administrative fee shall be due thirty (30) day after the date of TVA's invoice for said payment. Failure to make any payment as required by this license shall be basis for termination. No rent due. N/A HHS
19. The Native American Graves Protection and Repatriation Act and the Archaeological Resources Protection Act apply to archaeological resources located on the premises. Licensee shall not disturb or alter in any way the existing state of any archaeological sites, human remains, funerary objects, sacred objects, objects of cultural patrimony, or any other archaeological resources which may be discovered or identified on or under the premises. Upon the discovery of any such items, Licensee shall immediately stop all activity in the area of the discovery, make a reasonable effort to protect such items, and notify TVA's Cultural Compliance Staff by telephone at (865) 632-3660, or the Environmental Information Center (EIC) at (800)882-5263 and shall also send written notification of such discovery to TVA, Cultural Compliance, 400 W. Summit Hill Ave., WT 11A, Knoxville, TN 37902. Work may not be resumed in the area of discovery until approved by TVA.
20. No person shall, on the grounds of race, color, religion, sex, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or be subjected to any discrimination under any program activity carried out by the Licensee utilizing benefits or assets obtained by reason of the license. In conducting such programs and activities, the Licensee shall comply with applicable Federal laws, regulations, and Executive Orders together with any further amendments thereto.
21. Without limiting any obligations or liabilities under this agreement, the Licensee shall, at its own expense, provide and maintain in effect throughout the term of this agreement Commercial General Liability Insurance, occurrence form, with bodily injury and property damage combined single limits of at least the amount specified in Section P above. The policy or policies of insurance shall be written by insurance company or companies which shall be rated A or better by A.M. Best Company and are licensed to do business in the state given in Section E above, or are an accepted surplus lines carrier. The insurance carrier or carriers and form of policies shall be subject to TVA's acceptance.

The Licensee shall require its insurers to amend its Commercial General Liability and if applicable, Umbrella or Excess Liability policies to provide that:

- a) TVA, the U.S., their directors, officers, agents, and employees are Additional Insureds under this policy; and
- b) It states that it is primary, noncontributory insurance; and
- c) It includes an insurer's waiver of rights of subrogation in favor of TVA, the U.S., their directors, officers, agents and employees; and

Commercial/Public Recreation License Agreement

- d) It contains a cross liability or severability of interest clause; and
- e) It states the policy may not be canceled, non-renewed, or materially changed by the insurer without giving thirty (30) days prior written notice to TVA (except that notice of cancellation for nonpayment of premium may be ten (10) days).

Prior to beginning operations under this agreement, Licensee shall cause its insurers or agents to provide TVA with an annual Certificate of Insurance evidencing the policies and endorsements above. Failure by the Licensee to provide and maintain current, valid certificates of insurance throughout the agreement shall be material breach of the agreement for which TVA may exercise any rights or remedies it may have under the agreement or by law. If requested by TVA, the Licensee shall promptly provide or cause its agents to provide a certified copy of the insurance policy.

Licensee will promptly notify TVA of any accidents on and/or damage to the licensed premises or the facilities thereon. TVA may require the Licensee at any time to obtain and maintain increased minimum amounts of insurance coverage to the extent it reasonably believes such increased minimum amounts of insurance coverage are necessary in accordance with standard insurance industry practice or to cover changes caused by inflation.

- 22. TVA shall not be liable to Licensee by reason of any injury to person or property or for loss of life, property, or other interests suffered or sustained in, upon, or about any of the premises as a result of TVA operations or other activities. TVA reserves the right to manipulate the levels of any of its reservoirs in any manner whatsoever, and to drawdown said reservoirs at any time.
- 23. Licensee shall be responsible for maintaining supervision over the premises sufficient to control and secure the premises. As between Licensor and Licensee, Licensee shall be solely responsible for contacting appropriate local, state or federal officials to handle law enforcement matters; provided, however, nothing herein shall be construed to diminish the police powers of appropriate TVA officials.
- 24. Licensee shall be solely responsible for the costs of management, maintenance, repairs, or equipment for operation of the commercial recreation development.
- 25. When developing recreational facilities on TVA land (existing facilities upgrades, expansion or new construction beyond annual operations and maintenance) which are intended to be available commercially to the public, licensee is required by law to meet Americans with Disabilities Act Accessibility Guidelines requirements as outlined at <http://www.ada.gov/>.
- 26. This agreement in no way constitutes approval by TVA, within the meaning of Section 26a of the Tennessee Valley Authority Act of 1933, of any structures, utilities, or facilities constructed or to be constructed hereunder. The Licensee will not construct any structures, utilities, or facilities for which approval is required under said Section 26a (in the water or on the adjacent shoreline) until plans for such structure, utility, or facility have been submitted to TVA for approval in accordance with established procedures.

Commercial/Public Recreation License Agreement

27. In order to ensure that Licensee fulfills its rental payment obligation hereunder and its obligation to leave the licensed premises in a clean, orderly and sanitary condition and repair damage resulting from the removal of improvements, structures, or equipment upon termination of this license, Licensee shall (1) procure and maintain in effect for a term ending not less than 7 months after termination of this license an irrevocable letter of credit in the full amount of no less than the amount shown in Section O, above naming TVA as the sole beneficiary in a form and with a financial institution acceptable to TVA or (2) deliver to TVA a cash deposit in the full amount of no less than the amount shown in Section O above; provided, however, that TVA may, in its sole discretion, at any time with thirty (30) days' notice to Licensee, increase the required amount of the letter of credit or cash deposit to take into account higher anticipated costs of cleanup and restoration due to economic growth, additional development on the licensed premises, inflation, or other factors. Licensee shall provide to TVA documentation satisfactory to TVA as evidence that the required letter of credit or cash deposit has been procured and will remain in effect in accordance with the provisions hereof. Further, when requested for security assurance purposes, Licensee shall provide to TVA complete financial information (i.e., audited financial statements including balance sheets, income statements, cash flow statements and notes if a company or corporation, or tax returns if an individual or signed Release of Information Form) within 60 days for the preceding calendar year. In its sole discretion, TVA may waive the requirement for a letter of credit or cash deposit based on Licensee's financial condition, and such waiver may be rescinded at any time TVA determines that Licensee's financial condition is not sufficient to justify such waiver. N/A HHS
28. Any facilities or equipment subject to damage by inundation will be located above or flood proofed to the TVA Flood Risk Profile (FRP) or 500-year flood elevation (whichever is applicable) as identified in Section I above. Electric power installations must have a cutoff above the FRP or 500-year flood elevation and be accessible during flood events. Electric service shall comply with the National Electric Code Standards. By May 1 of the year following the five year anniversary of this license from the date in Section A above and each five years thereafter, Licensee shall provide written confirmation from a licensed electrician confirming such compliance to current National Electric Code Standards. Licensee shall be responsible for all utilities and damage deposits for security lights, water, electricity, and telephone services to the premises.
- In the event of an emergency situation related to the provision of any utility, as determined by a certified or licensed professional, TVA may provide notice of such emergency to Licensee. Licensee shall effect the cessation of service of the affected utility within twenty-four (24) hours of receipt of such notice. If Licensee fails to effect the cessation of service of the affected utility within 24 hours of receipt of TVA notice, TVA may enter the licensed premises to effect the cessation of service and, if necessary, secure the relevant utility cutoff. Licensee shall promptly resolve the emergency situation to the satisfaction of the certified or licensed professional and shall not pursue resumption of service of the affected utility until such emergency situation is resolved.
29. Licensee may be required, at TVA's discretion, to remove non-permitted structures from the land or reservoir. Licensee must meet its obligation to keep the license area in a clean, orderly and sanitary condition and repair any damage resulting from removal of unpermitted structures.

In addition to the above, the following items WHICH HAVE BEEN CHECKED (X) also apply:

30. The Licensee shall have the right to pass and re-pass over existing access roads of TVA not included in the licensed premises in going to and from said premises. Such existing access roads will be designated by TVA in this license. In the event that the Licensee shall require additional access roads in going to and from the licensed premises, the Licensee may construct, at its own expense, such additional access roads, but such additional access roads may not be constructed in locations other than those designated by TVA. Access roads so constructed by the Licensee shall be maintained in usable condition by the Licensee during the period of use thereof by the Licensee.
31. TVA provides for camping opportunities on its public lands through land agreements to commercial and public operators. It is TVA's intention to allow operators flexibility in their business operations while ensuring that the campgrounds are not used for residential purposes.

These length-of-stay requirements apply only to operations on TVA land.

Length-of-Stay Limitations for Commercial and Public Campgrounds Using TVA Property

Commercial/Public Recreation License Agreement

Campgrounds must be closed and all campsites completely vacated for 14 consecutive days per 12-month period. Camping units can be stored onsite at a parking lot or an open field during this closure period. TVA must have the opportunity to inspect the campground for compliance during this closure period. The 14-day period cannot be December 20 through January 4 unless approved by TVA. A waiting list, lottery system, combination of both, or other TVA-approved method must be utilized to allocate seasonal campsites when the campground reopens after closure.

Short-Term Sites

Short-term sites (stays of 21 days or less) must be at least 5% of the total number of sites at commercial campgrounds (i.e., 5% x 80 total sites = 4; therefore, the minimum number of short-term sites is 4). For campgrounds under recreation agreements to public entities, the short-term sites must be 25% of the total number of sites.

After a camping unit or individual(s) has occupied a short-term site for a maximum of 21 days and if the owner(s) or individual(s) desires to continue camping at the respective campground, the camping unit and individual(s) must either (1) move to an available seasonal site or (2) move to a different short-term site. Individuals cannot make reservations or be on a waiting list for another short-term recreation site as long as they are currently occupying a short-term site. Occupying a campsite means that the individual's camping unit is positioned on a campsite. The intent is to allow camping units on a short-term site to move to a different site if there are sites available on the 21st day rather than requiring the camper to leave the campground.

Seasonal Sites

Seasonal sites (stays of up to 11½ months) shall be limited to 95% of the total number of sites at commercial campgrounds (i.e., 95% x 60 total campsites = 57 sites). For campgrounds under recreation agreements to public entities, the seasonal sites are limited to 75% of the total number of sites.

Seasonal sites shall be rented based upon a well-defined and written procedure for executing a waiting list, lottery, combination of the two, or similar method approved by TVA where each member of the public has an opportunity to rent a campsite. Once all campsites are rented, a waiting list shall be kept to fill campsites when they become vacant. The procedure for renting seasonal sites shall be provided to the public by posting on a public bulletin board, on the campground website, or in a local news publication. Copies of the procedure must be provided to renters and the public on demand. If using a lottery, a lottery entry card should be used, and the camping unit identification number or description (for example, RV vehicle identification number (VIN)/tag number, tent brand, size, or color) and individual's name shall be used as the basis for entry rather than only one or the other. Only one lottery card per group (all individuals planning to stay at campsite) and camping unit per lottery drawing is allowed. The operator should keep sufficient records to document compliance and prevent individuals from taking unfair advantage of the selection system. The operator should take sufficient measures to prevent abuse and to ensure all members of the camping public have an opportunity to rent campsites. Current campers cannot be placed on any waiting list until they completely vacate the campsite. Campsites are not transferrable by campers. If an individual/camping unit gives up a campsite or sells their camping unit, then the next entry on the waiting list is to be offered the subject campsite.

If a camping unit sells while at a campsite, the camping unit must be moved from that site. If there is a waiting list, then the next person on the list is eligible for the site. If there are other open sites in the campground, the sold camping unit can occupy one of those sites. The campground operator controls the use of the campsite and not the campsite user.

Residential Use Prohibited

The campground operator shall monitor use of campsites, keep records, and ensure the campground use is recreational in nature and not residential. The following, without limitation, are considered evidence of residential use:

1. delivery of mail to individual campers or campsites
2. private mail boxes
3. boarding of city/county school buses

Commercial/Public Recreation License Agreement

4. ownership of wooden decks and landings other than those owned by the operator
5. use of liquid propane tanks greater than 50 gallons in size and not an integral manufactured component of a camping unit
6. use of campground address for such things as drivers license or voter registration
7. occupying the same campsite for more than 11½ months in any 12-month consecutive period (unless by exception and approved in writing by TVA)
8. similar type uses

The operator is responsible for preventing residential use. Residential use will be grounds for termination of the agreement.

Evacuation Plan

The operator shall develop and submit an evacuation plan to the local Emergency Management Agency and provide a copy of such plan to TVA (address provided in agreement). The evacuation plan should cover flooding, fires, inclement weather, and other types of emergencies. The plan should also cover all campsites on TVA land, including those above the Flood Risk Profile or 500-Year Flood elevation. All power installations must have a cutoff switch located above the Flood Risk Profile or 500-Year Flood elevation. The campground operator is responsible for monitoring weather reports, the TVA website, local Emergency Management Agency information, and other sources of information during potential emergency situations, including flood events. The operator is responsible for having access to equipment and capability to remove all camping units below the Flood Risk Profile or 500-Year Flood elevation within a 24-hour period and ensuring all camping units remain truly mobile and ready for highway use. This means the camping unit is on its wheels or jacking system, is attached to the site only by quick disconnect-type utilities and security devices, and has no permanently attached additions, connections, foundations, porches, or similar structures. The operator shall not leave any camping units below the Flood Risk Profile or 500-Year Flood elevation unattended for more than 24 hours at a time from November 1 to March 31.

Roofs, Decks, Porches, Fences, and Landings

Roofs over camping units of any type (wooden, metal, other) are not allowed.

Concrete landings adjacent to the campsites, with maximum dimensions 14 feet x 24 feet, owned by the operator are allowable with prior written approval by TVA. Concrete landings are preferable to wooden landings or decks. TVA will also review requests for combination concrete pads (where camping unit is parked) and landing (area adjacent to unit) of any size.

Wooden decks or landings, no greater than 14 feet x 24 feet, owned by the operator are allowable with prior written approval by TVA and should be constructed for individual campsites to meet the topographical conditions. Railings shall not be more than 36-inches high. The floor height of the deck should be no higher than 24 inches on the lower end and as needed on the high end due to topography.

All pads, decks, and landings must be approved by TVA before construction.

Package canopies/covers, which can be set up and taken down quickly (typically carried by hand and assembled/disassembled in 20 minutes or less), are allowed on the decks or landings as sun shields.

Equipment sheds owned by individual campers are not allowed. The operator may provide storage units or spaces at common locations if permitted in advance by TVA. No appliances intended for indoor use are to be located outside the camping units. Satellite dishes may be attached to campers, free standing, or temporarily attached to the deck. Satellite dishes may not be attached to trees.

Fences are not allowed.

Commercial/Public Recreation License Agreement

Annual Operating Plan

By March 16 of each year, the campground operator shall submit to TVA an Annual Operating Plan. The Plan shall include:

1. an accurate map of the campground identifying the campsites and associated facilities (boat ramps, playgrounds, dump stations, etc.)
2. a chart listing which sites are short-term sites and which are seasonal sites
3. a price list (to include all services)
4. how reservoir elevation information will be monitored during flood events (TVA website, visual observation, etc.)
5. a description of how camping units below the Flood Risk Profile/500-Year Flood elevation would be removed within 24 hours during a flood event
6. name and address of local Emergency Management Agency (EMA) Director and Power Distributor and written paragraph acknowledging date and time that the operator communicated evacuation plan to the EMA
7. names, addresses, and phone numbers of principal employees/contractors and their responsibilities
8. dates of camping season and hours of operation, including any period the campground will be closed and dates power and water would be shut off and returned to service
9. available information regarding respective campsites and occupancy rates for the previous calendar year
10. signed statement indicating compliance with restrictions against residential use
11. written report of the operator's personal compliance inspection of campground for previous calendar year
12. a copy of the campground evacuation plan including any revisions
13. other items the operator desires to provide or as requested by TVA

Documentation

If requested by TVA, the operator must provide copies of waiting lists, current occupants, lottery results, registration information, current and former reservation lists, and other camper occupancy and application information within 7 days.

- 32. Licensee's facilities located on the water shall remain within approved harbor limits at both winter and summer pool elevations as specified in the applicable Section 26a permit. Movement outside approved harbor limits in cases of extreme conditions such as drought or drawdown of the reservoir for maintenance of the dam may be permitted with TVA's prior written approval, which approval shall be at TVA's sole discretion and need not be given.
- 33. Watercraft docked on TVA property cannot be used as a person's residence or domicile. Residential use of marina facilities is prohibited. See Paragraph 31 for prohibited residential uses.
- 34. Non-navigable houseboats or boathouses shall not be permitted to be moored at the licensed premises or in the adjacent waters.
- 35. Licensee or TVA can terminate a slip agreement at any time for any reason. No long term interest in a particular slip may be given or "sold." Reference the associated 26a permit.
- 36. Licensee is a public entity: a local, federal, or state government, whose purpose is to provide recreation facilities for the benefit of its citizens. Licensee is considered the operator of the recreation facility. As stated in Paragraph 13, no assignment of this agreement or any interest herein shall be made or granted by Licensee without the prior written consent of TVA. Licensee shall not sublease or provide agreements for commercial operators to use the property. This requirement does not apply to contractors or concessionaires who are hired to provide specific services to assist the public entity in operations.

Commercial/Public Recreation License Agreement

As a public entity, Licensee may self-insure all of its requirements under Paragraph 21. However, Licensee agrees that nothing diminishes Licensee's responsibilities to TVA that would have otherwise been covered by the required insurance if and as such were provided by third-party insurers. Licensee will provide a letter evidencing its self-insured status to TVA.

37. At execution of this license, Licensee shall pay TVA _____ covering the rent for the period from execution of the license through _____. Beginning _____, Licensee shall make rent payments in accordance with Exhibit C.

Rental payments are due automatically without notice on the dates and in the amounts reflected in Exhibit C and should be mailed to either the address on the pertinent invoice or, if no invoice is provided, to TVA Treasury, Dept. 888018, Knoxville, TN 37995-8018 with reference to this license (RLR) number on the remittance.

Any payment due for any period less than the payment period specified in Section L shall be apportioned on a per-day basis.

As reflected in Section K, this license is subject to the PGR rent payment option upon execution. A request to change rent method to MV may be initiated with an application and appropriate fee. The process to change from PGR to MV will generally take 6 months to implement and make effective.

- a.) For PGR, Licensee shall pay TVA as rent for each calendar year of the license term the greater of (1) the sum of the periodic rental payments specified in Exhibit C or (2) the sum of one percent (1%) of boat and fuel sales, two percent (2%) of restaurant sales, six percent (6%) from campground operations on TVA land developed by TVA and four percent (4%) of all revenues from other activities on the licensed premises.
- i. Beginning April 30, _____, and by April 30 of each calendar year thereafter, Licensee shall pay TVA any additional rent amount due based on the annual gross revenues generated during the preceding calendar year. At that time, Licensee shall also submit to TVA:
 - TVA Annual Gross Revenues Summary Sheet (to be provided by TVA) and financial statements, compiled by a Certified Public Accountant (CPA) if less than \$1 million or reviewed by a CPA if \$1 million in revenues or greater. Alternately, Licensee may submit copies of federal and state income tax documents prepared and signed by a CPA.
 - Copy of current liability insurance policy
 - ii. In the event of termination of the license for any reason, documentation of gross revenues and any additional rent amount due based on the gross revenues for the terminating year shall be provided to TVA within sixty (60) days of termination.
 - iii. For purposes of this license, "gross revenues" shall include all sales proceeds, rentals, fees, and other payment from operations on the licensed premises, whether received by the Licensee or by approved sub-licensees, permittees, or concessionaires operating on the licensed premises. "Gross revenues" shall not include: (1) amounts collected from customers and paid by Licensee or concessionaires to any government for any sales, use, or excise tax; (2) proceeds from the sale of hunting and fishing licenses; or (3) the exact amount collected from customers for electrical services which are metered to the customer and collected by the Licensee as the servicing agent and paid to a distributor of TVA power.
 - iv. Licensee shall furnish to TVA at the same time it provides copies of its own gross revenues reports copies of all gross revenues reports furnished by sub-licensees, permittees, or concessionaires and all such gross revenues shall be deemed "gross revenues" for the purpose of calculating rent owed by Licensee.

Commercial/Public Recreation License Agreement

- v. Licensee shall at all times keep records and books of accounts based on generally accepted accounting principles covering business operations conducted by Licensee upon the licensed premises, and shall, whenever and as often as TVA may request, transmit operating statements and other reports relating to Licensee's activities and operations hereunder. Such books and records may be examined by auditors representing TVA either at a mutually agreeable location or upon the licensed premises during business hours. Such audit shall be at TVA's own expense; provided, however, that if the reported revenue differs from the actual revenue by ten percent (10%) or greater, Licensee shall pay to TVA (1) the underreported overdue rent amount upon and in accordance with invoice by TVA; (2) the reasonable cost of the audit; (3) interest on the underreported overdue rent amount in accordance with Paragraph 18 above; and (4) a penalty in the amount of \$3,000.00 plus twenty percent (20%) of the underreported overdue rent amount. TVA reserves the right to conduct financial audits at any time at its discretion. TVA also has the right to terminate any agreement based on inaccurate reporting of revenues.
 - vi. Licensee shall include in any authorized sublicense, permit, or concession agreement provisions requiring the keeping of records and books of account of operations thereunder adequate for the verification of the gross revenues from such operations and allowing examination of such records and books by TVA during business hours.
 - vii. Any future increase or decrease in the number of campsites on the licensed premises, if any, or in the size of the licensed premises or harbor limits rent area, if any, will proportionately increase or decrease, as appropriate, the guaranteed minimum payment associated with this license and will require a corresponding change to Exhibit C. Once such proposed increases or decreases have been approved by TVA, the new guaranteed minimum payments will be adjusted accordingly beginning on the first day of the next quarter following TVA approval. TVA will prepare a new Exhibit C to reflect the new payments using the same methodology that was used to prepare the initial Exhibit C. The Minimum Rent Rate per Campsite reflected in the initial Exhibit C shall remain the same throughout the term of this license. Licensee shall reimburse TVA for any and all administrative and environmental review costs incurred by TVA associated with such a change, including without limitation the cost to prepare a new Exhibit C and any related amendments to the license to incorporate such new Exhibit C.
- b.) If Licensee selects and TVA approves the MV option, the rent payments will be based on the market value of the licensed area above the water and that portion of the harbor area being utilized. Under this option, an appraisal would be completed, at the Licensee's expense, by an appraiser acceptable to TVA (such appraisal is subject to approval by TVA) to determine the value of the licensed area including the associated harbor limits on a per acre basis. The first year's payment would be a percentage (currently 7.25%) of the appraised value of the licensed area above the water and that portion of harbor area being utilized. Successive payments would be escalated each year for the term of the agreement (currently at 2% per year.) A change to the MV option from the PGR option would necessitate the creation of a new Exhibit C to reflect the different payment structure, as well as related amendments to the license to incorporate such new Exhibit C and to properly reflect the particulars of the MV payment method. Either Licensee or TVA can reappraise the licensed area after five years.

TVA reserves the right to evaluate and change the annual fee rates and Exhibit C. If a new fee structure is initiated, a change in the rent payments for the license will be required. TVA will notify the holder of the agreement and give at least 30 days' notice if and when a change in fees is to be implemented.

More information on the Commercial Recreation Management Fee Guideline can be found on the TVA website at <http://www.tva.com/river/recreation/commercial.htm>.

38. Special Provisions

Notwithstanding anything in Paragraph 12, TVA recognizes that the Licensee, to the extent allowed by law and up to the limits as set out in T.C.A. 29-20-101 et. seq., agrees to fully indemnify and hold the United States of America, TVA and its directors, officers, agents, and employees, harmless from and against any and all claims, demands, liability, losses, damage, costs, or expenses (including attorney's fees and other costs of defense), of any nature or kind whatsoever, arising out of or otherwise resulting from the Licensee's activities on the premises or the condition or use of the premises covered by this agreement, except liability for personal injuries, property damage, or loss of life or property caused by the sole negligence of TVA, its directors, officers, agents, or employees.

Commercial/Public Recreation License Agreement

With respect to compliance with Paragraph 21, TVA recognizes Hamilton County and The City of Chattanooga are self-insured. However, should Hamilton County or The City of Chattanooga cease to be self-insured, covenant 21 above shall be required in all its entirety as to the party that is no longer self-insured. Hamilton County's and the City of Chattanooga's right to self-insure does not reduce or eliminate its liability to TVA.

With respect to Paragraph 27, TVA choses to waive the requirement for a letter of credit or cash deposit.

LICENSEE

By _____

Print Name _____

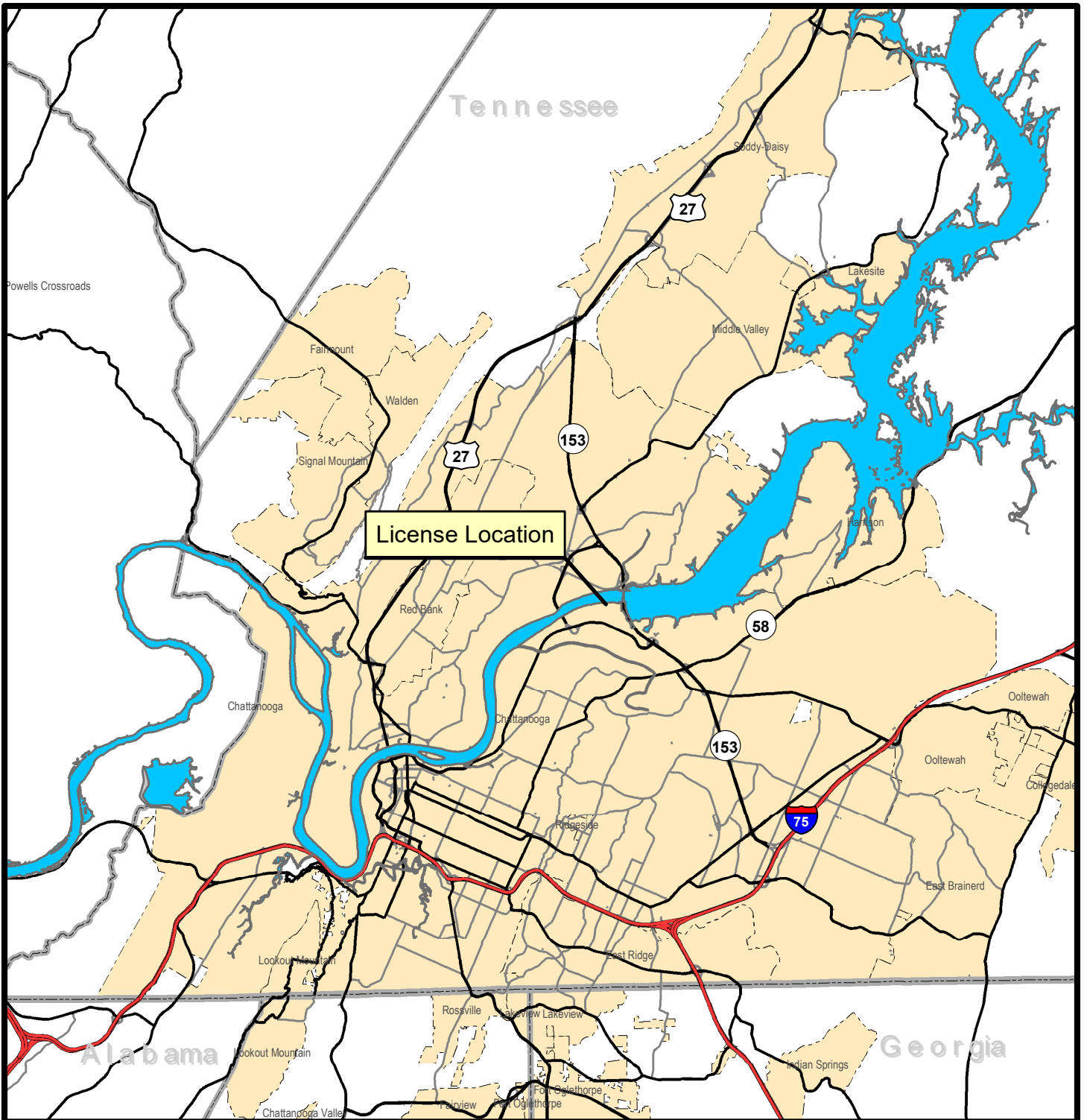
Title _____

TENNESSEE VALLEY AUTHORITY

By _____

Print Name J. Scott Lea

Title Senior Manager, Commercial & Public Recreation



Vicinity Map
Nickajack Reservoir
City of Chattanooga/Hamilton County
ID 4013726
Hamilton County, Tennessee
CR-1418

Map Reference:
 C/D Stage: 29
 Quad: 112SW

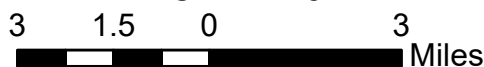


Natural Resources

June 9, 2021

Legend

- Interstate Highways
- ALIS Reservoirs
- US Highways
- State Boundary
- State Highways
- County Boundary
- Major Highways
- Major Roads
- City Boundary



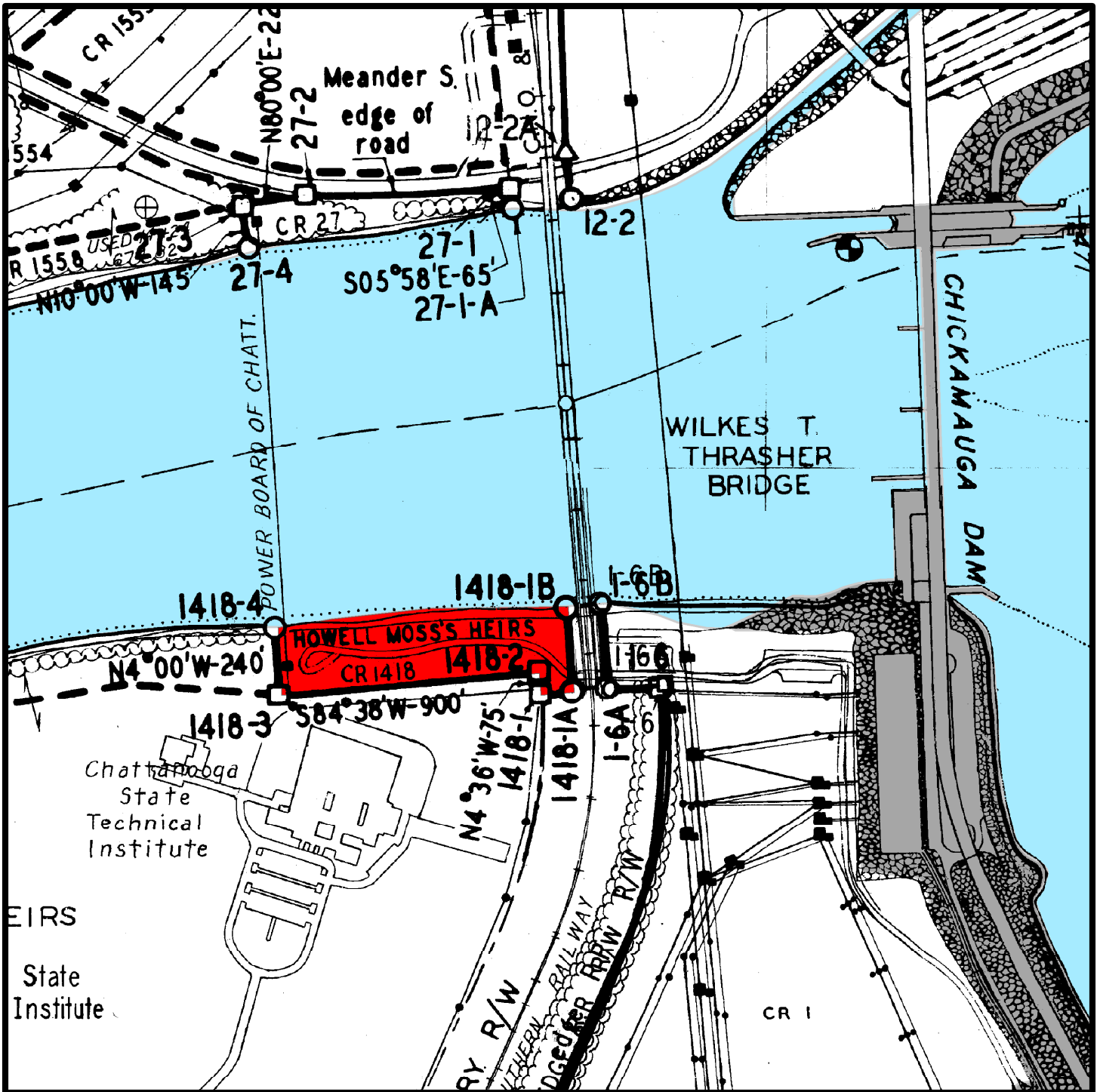



Exhibit A Map
 City of Chattanooga/Hamilton County
 License for Public Recreation
 ID 4013726
 Hamilton County, Tennessee
 CR-1418
 Tennessee River Mile 470.7L

Map Reference:
 C/D Stage: 29
 Quad: 112SW

 License Location
 (Approx. 5.7 acres)



Natural Resources
 June 9, 2021