

VEHICLE USE AGREEMENT BETWEEN FULTON COUNTY, GEORGIA AND FULTON COUNTY BOARD OF HEALTH

THIS VEHICLE USE AGREEMENT between **FULTON COUNTY, GEORGIA** (“COUNTY”), a political subdivision of the State of Georgia and **FULTON COUNTY BOARD OF HEALTH** (“BOH”), an independent agency created pursuant to state law, is made and entered into on this _____ day of _____ 2021.

WITNESSETH

WHEREAS, the COUNTY and the BOH entered into an Intergovernmental Agreement on April 12, 2017, which formally coordinates a broad range of services the COUNTY provides to the BOH; and

WHEREAS, the BOH is tasked with the responsibility and authority in all matters pertaining to health within its designated COUNTY and is required to take necessary steps to prevent and suppress disease and conditions deleterious to the public’s health; and

WHEREAS, the BOH may contract with other agencies for assistance in the performance of its functions, the exercise of its powers and for supplying services; and

WHEREAS, beginning in March 2020, Fulton COUNTY, Georgia has been impacted by the threat and spread of a novel coronavirus known as SARS-CoV-2 (COVID-19); and

WHEREAS, Coronavirus Aid, Relief, and Economic Security Act (CARES Act) an economic stimulus bill, allocated funds to the COUNTY to respond to the spread of COVID 19; and

WHEREAS, the COUNTY purchased two vehicles with CARES ACT funds to assist the COUNTYs response to the COVID-19 pandemic; and

WHEREAS, the BOH desires to utilize the COUNTY owned vehicles to respond to the COVID-19 pandemic by carrying out vaccination efforts and prevent and suppress disease that effect public health, to include, but limited to, human immunodeficiency viruses (HIV); and

WHEREAS, the BOH desires to utilize other COUNTY owned vehicles for carrying out its responsibility for all matters pertaining to health and necessary to prevent and suppress disease and conditions deleterious to the public’s health; and

WHEREAS, the Constitution of the State of Georgia provides, in Article IX, Section III, Paragraph I, Subparagraph I, Subparagraph (a), that any county or municipality of the State of Georgia may contract for any period not exceeding 50 years, with each other or with any other public agency, public corporation, or public authority for the provision of services, or for the

joint or separate use of facilities or equipment when such contracts deal with activities, services, or facilities, which the contracting parties are authorized by law to undertake or provide; and

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are acknowledged, the COUNTY and the BOH agree as follows:

VEHICLE USE AGREEMENT

SECTION 1.0 – TERMS OF VEHICLE USE AGREEMENT

COUNTY hereby agrees to grant BOH the right to use certain vehicles (“Vehicles”) for the purpose of responding to the COVID-19 pandemic and preventing and suppressing other diseases that affect the public health of Fulton County residents. The BOH is required to utilize and maintain the Vehicles as outlined and described in this Agreement.

SECTION 2.0 – TERM

This Agreement shall become effective upon signature, and shall continue until July 1, 2022, unless earlier terminated in accordance with this Agreement.

SECTION 3.0 – LIMITATION ON USE OF VEHICLES

COUNTY shall have the responsibility, at COUNTY’s sole cost, to obtain any and all licenses, titles, permits and any other certificates as may be required by law or otherwise for the lawful possession or occupancy of the Vehicles identified in Attachment B-1. BOH agrees that all certificates of titles or registrations applicable to the Vehicles hereunder shall reflect COUNTY's ownership thereof.

All Vehicles shall be used for the purpose as outlined in this Agreement. BOH agrees that the Vehicles will be used by employees of BOH who were issued Georgia driver licenses. BOH agrees to contact the Georgia Department of Motor Vehicle (DMV), and will continue to do so periodically, to ensure that employees operating the vehicles have valid Georgia driver licenses. BOH agrees that it will comply with all applicable federal, state and local laws in the operation of the Vehicles. BOH agrees that no vehicles will be used by any person who is not an employee of BOH and/or has not been issued a valid Georgia driver’s license.

SECTION 4.0 – COMPENSATION

In consideration for the provision of the Vehicles listed in Attachment B-1, BOH shall pay COUNTY in exchange for one dollar (\$1.00) in hand and other good and valuable consideration for use of the Vehicles.

SECTION 5.0 – BOH DUTIES

BOH will have the following duties which it agrees will be faithfully executed during the term of this Agreement:

- 5.1 BOH will keep the Vehicles free from physical damage. BOH will pay for all operating expenses for the Vehicles during the Agreement, including, but not limited to, the cost of fuel, add-oil, lubrication, parking, tolls and all other costs associated with operating the Vehicles.
- 5.2 BOH is responsible for repairs to the Vehicles required for safe operation and maintenance of the Vehicles in accordance with this Agreement.
- 5.3 BOH agrees to pay any and all fines, penalties, citations, parking tickets or court process (all referred to as "Fines") issued in connection with the use of the Vehicles. COUNTY has no responsibility for any fines relating to the use of the Vehicles. If BOH fails to pay or settle any such fine, COUNTY may pay it for BOH and BOH shall reimburse COUNTY on demand any sum paid.
- 5.4 BOH will not modify the Vehicles without the prior written consent by the COUNTY.
- 5.5 BOH agrees not to use or permit the use of the Vehicles: (a) for any unlawful or wrongful purpose or in violation of any law; (b) to transport passengers in excess of the rated capacity of the Vehicles; (c) outside the state without the prior written consent of the COUNTY; or, (d) for any purpose outside the scope of this Agreement.
- 5.6 BOH will ensure that the COUNTY's Vehicle Use policy as set out in the COUNTY's Personnel Policy 200-16 will be followed by BOH's employees using the Vehicles.
- 5.7 BOH shall at all times observe and comply with all federal, state, local and municipal ordinances, rules, regulations, including but not limited to the Uniform Rules of the Road.
- 5.8 COUNTY may inspect the Vehicles at any reasonable time.

SECTION 6.0 – VEHICLES

COUNTY hereby authorizes BOH to use the Vehicles more fully described in Attachment "B-1", attached hereto and by reference incorporated herein. The vehicles will be parked and/or stored at Fulton County Central Maintenance Facility 895 Marietta Blvd Atlanta, GA 30318 at no additional cost to the BOH.

SECTION 7.0 – REGISTRATION AND TAXES

COUNTY shall at all times retain ownership of the Vehicles. COUNTY shall pay all fees, dues, cost, and expense to register and the Vehicles. All taxes associated with the Vehicles are the COUNTY'S responsibility.

SECTION 8.0 – INSURANCE REQUIREMENTS

BOH shall obtain and maintain during the term of this agreement, all of the insurance on the vehicles as specified below:

BUSINESS AUTOMOBILE INSURANCE

Liability - Combined Single Limits Each Occurrence - \$1,000,000 (Including operation of non-owned, owned, and hired automobiles)

Uninsured/ Underinsured Motorist Limits - \$1,000,000

Physical Damage (comprehensive and collision) must be provided

The COUNTY shall be named as an additional insured and loss payee on all policies of insurance referenced herein and BOH shall furnish the COUNTY a Certificate of Insurance showing the required coverage. The cancellation of any policy of insurance required by this agreement shall meet the requirements of notice under the laws of the State of Georgia as presently set forth in the Georgia Code. The BOH shall maintain regular communications with the COUNTY Risk Manager and her designee, and shall actively cooperate in all matters pertaining to this Agreement including, without limitation, assisting COUNTY in investigating and responding to any and all complaints, inspections, or investigations, arising in connection with BOH's provision of obligations under this Agreement. If needed, the BOH shall ensure that the COUNTY's Risk Manager can communicate directly to the insurer.

SECTION 8.0 – ACCIDENTS, DAMAGE TO, LOSS OR THEFT OF VEHICLES

Any accidents, damage to, loss or theft of Vehicles must be immediately reported to COUNTY Risk Management, and in no case more than 24 hours after the event occurs. BOH shall fully cooperate with COUNTY in handling any claims, lawsuits or legal proceedings arising against the COUNTY from such accident, damage, loss or theft of the vehicle. BOH must also notify the applicable law enforcement agency regarding any accident as required by law.

BOH shall immediately report any accidents, damage to, loss or theft of Vehicles in accordance with the requirements of BOH'S insurance policy.

BOH agrees to keep the Vehicles free from any liens, encumbrances or claims. BOH will assume responsibility for the cost of all maintenance and repairs due to damage or loss or replacement of the Vehicles. BOH shall repair or replace all vehicle damage or loss. In the event one or more of the Vehicles are completely destroyed or damaged beyond repair during the term of this Agreement, BOH shall pay to COUNTY, an amount equal to the replacement fair market value as determined by Kelly's Blue Book.

Except to the extent required by law, COUNTY does not extend any of its vehicle financial responsibility or provide insurance coverage to the BOH, its passengers or third parties. If the

COUNTY is required by law to extend its financial responsibility to BOH, the COUNTY limits its liability to the state law required minimum financial responsibility limits.

SECTION 9.0 – RESPONSIBILITY TO THIRD PARTIES

BOH agrees to comply with all applicable laws, including but not limited to the Uniform Rules of the Road, in the operation of the Vehicles. The COUNTY is not responsible for the loss, damage or theft of any personal property contained within the Vehicles regardless of fault. BOH acknowledges and agrees that no bailment, actual or constructive or otherwise is created for any personal property carried in or left in the Vehicles.

SECTION 10.0 – INDEMNIFICATION

BOH hereby agrees to release, indemnify, defend and hold harmless the COUNTY, its Commissioners, officers, employees, subcontractors, successors, assigns and agents, from and against any and all losses (including death), claims, damages, liabilities, costs and expenses (including but not limited to all actions, proceedings, or investigations in respect thereof and any costs of judgments, settlements, court costs, attorney's fees or expenses, regardless of the outcome of any such action, proceeding, or investigation), caused by, relating to, based upon or arising out of any act or omission by BOH, its directors, officers, employees, subcontractors, successors, assigns or agents, or otherwise in connection with its acceptance, or the performance, or nonperformance, of its obligation under this Agreement.

SECTION 11.0 – INDEPENDENT CONTRACTOR

BOH shall perform the services under the Agreement as an entity independent from the COUNTY and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall be interpreted or construed to indicate that the BOH or any of its agents or employees to be the agent, employee or representative of the COUNTY.

SECTION 12.0 – SEVERABILITY

If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.

SECTION 13.0 – MODIFICATIONS

The COUNTY reserves the right to modify this Agreement. This Agreement shall only be amended, modified or changed by writing, executed by authorized representatives of the parties, with the same formality as the Agreement was executed. Any modification and/or supplemental agreement shall not become effective or binding unless approved by the Board of Commissioners and entered on the minutes.

SECTION 14.0 – TERMINATION

COUNTY and BOH agree that any termination of the Second Amended and Restated Intergovernmental Agreement shall also operate as a termination of this VEHICLE USE AGREEMENT.

14. 1 Termination Of Vehicle Use Agreement For Cause

Either the COUNTY or the BOH may terminate this Agreement in the event the other party fails to perform in accordance with the provisions of this Agreement. Any party seeking to terminate this Agreement is required to give thirty (30) days prior written notice to the other party. Notice of termination shall be delivered by certified mail with receipt for delivery returned to sender to the individuals identified in Section 22.

14. 2 Termination For Convenience Of County

Notwithstanding any other provisions, the COUNTY may terminate this Agreement for its convenience at any time by a written notice to the BOH.

SECTION 15.0 – DISPUTES

Should the COUNTY or BOH believe that the other party has breached, is breaching, or has attempted or threatened to breach any of the provisions or terms of this Agreement, the non-breaching party, prior to seeking alternative dispute resolution, must give notice of such breach and/or potential or possible breach to the other party and a thirty (30) day opportunity to cure or correct such breach or cease the activities that are causing a breach and/or giving rise to a potential or possible breach. If the breach and/or potential or possible breach specified in such notice is cured within said thirty (30) day period, then such notice shall be deemed withdrawn, and no cause of action or right to seek enforcement of the breach and/or potential or possible breach specified in such notice shall be deemed to exist.

After notice and opportunity to cure, if the dispute under or about this Amendment, (including, but not limited to disputes pertaining to the interpretation of any term or provision of this Agreement, the type of program, activity, service, or action that is intended or contemplated hereunder, or the manner or level in which any program, service, activity, or other action intended or contemplated hereunder is provided or undertaken) the parties agree to attempt alternative dispute resolution in the Atlanta metropolitan area and to seek the counsel or input of the County Attorney for Fulton County, Georgia, and the General Counsel of the Georgia Department of Public Health to help interpret the responsibilities of the Parties. This Agreement may not be terminated unless both parties agree.

SECTION 16.0– WAIVER OF BREACH

The waiver by either party of a breach or violation of any provision of this Agreement shall not operate or be construed to be, a waiver of any subsequent breach or violation of the same or other provision thereof.

SECTION 17.0 – COMPLIANCE WITH APPLICABLE LAWS

BOH shall at all times observe and comply with all federal, state, local and municipal ordinances, rules, regulations, including but not limited to the Uniform Rules of the Road and toll free requirements, relating to the provision of the services contracted to be provided by the BOH hereunder or which in any manner affect this Agreement.

SECTION 18.0 – OPEN RECORDS ACT

The Georgia Open Records Act, O.C.G.A. Section 50-18-70 et seq. applies to this Agreement. BOH acknowledges that any documents or computerized data provided to the COUNTY by BOH may be subject to release to the public. BOH also acknowledges that documents and computerized data created or held by BOH in relation to the Agreement may be subject to release to the public, to include documents turned over to the COUNTY. BOH shall cooperate with and provide assistance to the COUNTY in rapidly responding to Open Records Act requests. BOH shall notify the COUNTY of any Open Records Act requests no later than twenty-four (24) hours following receipt of any such requests by BOH. BOH shall promptly comply with the instructions or requests of the COUNTY in relation to responding to Open Records Act requests.

SECTION 19.0 – ASSIGNABILITY

BOH shall not assign this Agreement without the prior express written consent of the COUNTY. Any attempted assignment by BOH without the prior express written approval of COUNTY shall at COUNTY'S sole option terminate this Agreement without any notice to BOH of such termination. The COUNTY and BOH, each bind themselves, their successors, assigns, and legal representatives of such other party in respect to all covenants, contracts and obligations contained herein.

SECTION 20.0 – SUBCONTRACTING

BOH shall not subcontract any part of this Agreement without prior written approval of COUNTY.

SECTION 21.0 – RETURN OF VEHICLES

BOH agrees to return the Vehicles no more than seventy-two (72) hours after expiration of the Agreement. BOH agrees to clean the Vehicles upon return to the COUNTY at BOH's sole cost and expense. BOH must maintain the Vehicles in a safe and professional condition and return the Vehicles to COUNTY in the same condition as when obtained, normal wear and tear accepted. Records must be kept on all maintenance, problems and mileage.

SECTION 22.0 – NOTICES

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notice to COUNTY shall be addressed as follows:

Department of Purchasing & Contract Compliance
Chief Purchasing Agent
130 Peachtree Street, S.W., Suite 1168
Atlanta, Georgia 30303
Telephone: (404) 612-5800
Email: Felicia.Strong-Whitaker@fultoncountygga.gov
Attention: Felicia Strong-Whitaker

Notices to BOH shall be addressed as follows:

Lynn A. Paxton, M.D., M.P.H.
10 Park Place, South, SE, 4th Floor
Atlanta, GA 30303
Telephone: 404-613-1642
Email: Lynn.Paxton@fultoncountygga.gov
Attention: Lynn A. Paxton

With a copy to:

Beverly Stanley
10 Park Place, South, SE, 4th Floor
Atlanta, GA 30303
Telephone: 404-613-1276
Beverly.Stanley@fultoncountygga.gov

SECTION 23.0 – GOVERNING LAW AND CONSENT TO JURISDICTION

This Agreement is made and entered into in the State of Georgia and the rights and obligations of the Parties hereto shall be governed by and construed according to the laws of the State of Georgia.

SECTION 24.0 – FORCE MAJEURE

Neither the COUNTY nor the BOH shall be deemed in violation of this Agreement if either is prevented from performing its obligations hereunder for any reason beyond its control, including but not limited to, acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, or catastrophic failure of public transportation, provided however, that nothing herein shall relieve or be construed to relieve the BOH from performing its obligations hereunder in the event of riots or rebellions.

SECTION 25.0 - NO WAIVER OF PRIVILEGES AND IMMUNITIES

Notwithstanding anything else in this Agreement to the contrary, nothing in this Agreement shall be construed to weigh or operate as a waiver of the privileges and immunities available to the

COUNTY under applicable law, including without limitation sovereign immunity and official immunity as the circumstances maybe.

SECTION 26.0 – ENTIRE CONTRACT

This Agreement, together with Attachment B-1, constitutes the entire understanding and agreement between the Parties regarding the Vehicles. No representations, inducements, promises or contracts, oral or otherwise between the parties not embodied herein, except for the Agreement, shall be of any force or effect.

SECTION 27.0 – HEADINGS

The captions are inserted herein only as a matter of convenience and for reference and in no way define limits or describes the scope of this Agreement or the intent of the provision thereof.

IN WITNESS THEREOF, the Parties hereto have caused this Vehicle Use Agreement to be executed by their duly authorized representatives as attested and witnessed and their corporate seals to be hereunto affixed as of the day and year date first above written.

FULTON COUNTY, GEORGIA

BOARD OF HEALTH

Robert L. Pitts, Chairman
Fulton County Board of Commissioners

Lynn Paxton, Director
Board of Health

ATTEST:

ATTEST:

Tonya R. Grier
Clerk to the Commission

Notary Public

(Affix County Seal)

(Affix Corporate Seal)

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Department Head

ATTACHMENT B-1

Vehicle Inventory

LIST OF VEHICLES

COUNTY ID NO.	MODEL	YEAR	VIN
520802	Mercedes Benz	2020	W1W8ED3Y8LT020646
520803	Mercedes Benz	2020	W1Y8ED3Y8LT031718