

## MEMORANDUM OF UNDERSTANDING

**THIS MEMORANDUM OF UNDERSTANDING** is entered into on this day 16<sup>th</sup> of March, 2021 by and between **THE CITY OF ATLANTA, FULTON COUNTY, GEORGIA, FULTON COUNTY DISTRICT ATTORNEY, FULTON COUNTY SOLICITOR** and **ATLANTA/FULTON COUNTY PRE-ARREST DIVERSION INITIATIVE, INC.**

Regarding

### **THE ATLANTA/FULTON COUNTY PRE-ARREST DIVERSION INITIATIVE**

#### RECITALS

**WHEREAS**, residents and business owners in the City of Atlanta, Georgia ("City") and Fulton County, Georgia ("County"), desire to improve public safety and quality of life in their neighborhoods; and

**WHEREAS**, there is evidence to support the conclusion that arresting, prosecuting, and jailing individuals committing offenses related to unmet mental health needs, problematic substance use, extreme poverty and other health and wellness issues in the City has had limited effectiveness in improving either public safety or quality of life in the neighborhoods; and

**WHEREAS**, in May, 2019 the Atlanta City Council adopted and Mayor Keisha Lance Bottoms approved Resolution 19-R-3622 which established a task force, (the Reimagining ACDC Task Force), to lead a comprehensive process for the transformation of the Atlanta City Detention Center (ACDC) by evaluating potential re-use that could benefit the entire community and to reimagine ACDC as a center for equity; and

**WHEREAS**, the Fulton County Board of Commissioners have supported the recommendation of the Fulton County Justice & Mental Health Taskforce that persons with unmet mental health needs should be diverted away from arrest and booking into the Fulton County jail; and

**WHEREAS**, the City of Atlanta, Fulton County, Central Atlanta Progress and private foundations have supported the creation of the Atlanta/Fulton County Pre-Arrest Diversion Initiative (PAD) in 2017 to implement a two-year pilot of Law Enforcement Assisted Diversion (LEAD) with local criminal justice agencies; and

**WHEREAS**, in 2017, pursuant to 17-R-3693 the Atlanta City Council authorized the Mayor of the City of Atlanta to enter into an appropriate Memorandum of Understanding with the Fulton County District Attorney, the Fulton County Solicitor, the Fulton County Public Defender's Office, and the Atlanta/Fulton County Pre-Arrest Diversion Initiative, Inc. for the creation of the Pre-Arrest Diversion (PAD) Initiative Operational Working Group, and to memorialize the governance and responsibilities thereof; and

**WHEREAS**, the term of the 2017 Memorandum of Understanding ran through June 30, 2019; and

**WHEREAS**, it is a desire of the original parties to the 2017 Memorandum of Understanding to enter into this new Memorandum of Understanding ("2021 MOU") concerning the operation, governance and responsibilities of the for the newly restructured Atlanta/Fulton PAD Law Enforcement Assisted Diversion (LEAD) Policy Coordinating Group and Operational Working Group; and

**WHEREAS**, the term of this 2021 MOU shall run through June 30, 2023, unless amended or terminated.

NOW, THEREFORE, the parties state their intent for this 2021 MOU as follows:

**A. Formation, Purposes and Membership of the Atlanta/Fulton PAD/LEAD Policy Coordinating Group**

1. An Atlanta Fulton PAD/LEAD Policy Coordinating Group (PCG) comprised of City and County criminal justice agency and government leadership shall guide strategic utilization and expansion of pre-arrest diversion using the LEAD model with the goal of reducing arrests and incarceration in the City of Atlanta and Fulton County. The PCG will meet no less than quarterly to provide oversight of the Atlanta/Fulton County PAD LEAD initiative implementation and review and troubleshoot utilization trends, arrest and booking trends, and recidivism and legal barrier reduction for diverted individuals.

Furthermore, the PCG will participate in national LEAD technical assistance opportunities and ensure fidelity to the LEAD core principles of harm reduction and housing first. The PCG shall consist of the following representatives or their designees:

- a. City of Atlanta Chief Operating Officer;
  - b. Fulton County Deputy Chief Operating Officer for Public Safety;
  - c. Chief of Police, City of Atlanta Police Department;
  - d. Fulton County District Attorney;
  - e. Fulton County Solicitor General;
  - f. City of Atlanta Solicitor;
  - g. Fulton County Public Defender;
  - h. City of Atlanta Public Defender;
  - i. Director, Fulton County Department of Behavioral Health and Developmental Disabilities; and
  - j. Executive Director of the Atlanta Fulton County Pre-Arrest Diversion Initiative, Inc.
2. By written amendment signed by all parties to this MOU, additional member entities and organizations may be added to the PCG, as either voting or advisory members, upon unanimous consent of the existing members.

**B. Authorization, Purposes and Membership of the Atlanta Fulton PAD/LEAD Operational Working Group**

1. An Atlanta/Fulton PAD/LEAD Operational Working Group (OWG), comprised of City and County criminal justice and human service agency representatives, is hereby authorized to implement County pre-arrest diversion through the LEAD model. The primary purpose of the OWG is to conduct case

review of diverted individuals, including acceptance/denial of new diversion referrals. Representatives to the OWG will have the discretion/authority to provide recommendations to fellow attorneys assigned to any PAD participants' open cases. OWG members will also review and provide feedback on diversion and referral protocol, case management protocol, and outreach and harm reduction services. The OWG will meet no less than monthly to review PAD participant progress and develop collaborative action plans to support participant success and minimize criminal justice involvement through the principles of harm reduction and housing first. The OWG shall consist of representatives from each of the following entities:

- a. The City of Atlanta Police Department;
  - b. The Fulton County District Attorney's Office;
  - c. The Fulton County Solicitor's Office;
  - d. The City of Atlanta Solicitor's Office;
  - e. The Fulton County Public Defender's Office;
  - f. The City of Atlanta Public Defender's Office; and
  - g. The Atlanta Fulton County Pre-Arrest Diversion Initiative, Inc.;
2. By written amendment signed by all parties to this MOU, additional member entities and organizations may be added to the OWG, as either voting or advisory members, upon unanimous consent of the existing members.

**C. Designation of Atlanta / Fulton PAD Initiative, Inc. as the Managing Entity for Atlanta / Fulton County Pre-Arrest Diversion through the LEAD model**

1. The Atlanta Fulton County Pre-Arrest Diversion Initiative, Inc. is hereby designated as the Managing Entity for the Atlanta / Fulton County Pre-Arrest Diversion through the LEAD model.
  - b) **Governance.** The Atlanta Fulton County Pre-Arrest Diversion Initiative, Inc. (PAD Initiative) is an independent non-profit organization governed by a Board of Directors.
  - a) **Responsibilities.** The PAD Initiative will manage the daily operations of the Atlanta / Fulton County Pre-Arrest Diversion/LEAD, including stakeholder coordination, law enforcement training, fundraising, and management of evaluation and service provision contracts. The PAD Initiative will convene and facilitate the PCG and OWG. The PAD Initiative will facilitate the formation of an independent Community Leadership Team, in order to continuously engage diverse stakeholders, including business owners, neighborhood representatives, social service providers, advocates, and directly impacted communities to act in an advisory capacity to PAD/LEAD agency partners.

**D. MOU Signatories' Individual Statement of Intent**

The parties signing this 2021 MOU specifically state their respective intents and commitments as follows:

1. **The City** is committed to providing support for the implementation, expansion and sustainability of the Atlanta / Fulton County Pre-Arrest Diversion Initiative through the LEAD model through participation as set forth herein.

**Staffing.** The Chief Operating Officer or his/her designee will participate in the Atlanta / Fulton County PAD/LEAD PCG, including attending quarterly meetings and participating in occasional technical assistance and training opportunities.

**Cross-sector Collaboration.** The City will facilitate collaboration with relevant city agencies to address the complex legal and social service needs that create barriers to stability and success for diverted individuals;

- a. **The City, by and through the Atlanta Police Department,** is committed to participating in Atlanta / Fulton County Pre-Arrest Diversion through the LEAD model.

**Staffing.** The Chief of Police or designated command level personnel will participate in the Atlanta / Fulton County PAD/LEAD PCG, including attending quarterly meetings. Zone Commanders of Zones where the Atlanta / Fulton County PAD Initiative is active will ensure Atlanta Police Department representation on the OWG and designate mid-level supervisors and officers to participate in monthly OWG meetings. When staffing levels allow, an officer will be dedicated to serve as the pre-arrest diversion/LEAD Liaison to conduct peer-to-peer engagement and support for officers conducting diversion referrals.

**Training.** The Atlanta Police Department recognizes the importance of police officers understanding the goals and principles of pre-arrest diversion and the LEAD model, the philosophy of harm reduction, and the process of making a diversion. The Atlanta Police Department will work with the Managing Entity to ensure that all new officers and line level supervisors are trained within three months of serving in an Atlanta / Fulton County PAD Initiative eligible watch. To the extent possible, the Atlanta Police Department will incorporate the concept of the Atlanta / Fulton County Pre-Arrest Diversion Program in appropriate recruit training modules.

**Documentation of Diversion.** As previously established, the Atlanta Police Department will continue requiring documentation of diversion and diversion attempts in Field Interview Forms; and will continue allocating performance credit for diverted charges no differently than from charges which led to an arrest.

**Data Tracking & Reporting.** The Atlanta Police Department will provide arrest and call for service data to PAD on a monthly basis. Atlanta / Fulton County PAD Initiative will provide a quarterly report to the department showing the status of its referrals, to include who remains a participant and who is no longer a participant.

- b. **The City, by and through the City of Atlanta Office of the Solicitor,** is committed to participating in Atlanta / Fulton County Pre-Arrest Diversion /LEAD through staffing, and the authorization of prosecutorial staff to seek creative solutions for cases involving PAD participants.

The Solicitor or senior-level designee will participate in the Atlanta / Fulton County PAD/LEAD Policy Coordinating Group, including attending quarterly meetings and participating in occasional technical assistance and training opportunities.

The Solicitor will assign appropriate staff to serve on the OWG, where the appointee will review and initiate diversion referrals, identify and track PAD participants' open cases and other legal barriers, and participate in monthly OWG meetings. The appointee will also act as a liaison between the PAD care navigators and prosecuting attorneys for any old or new criminal cases that PAD participants may have, which includes educating the prosecuting attorney about pre-arrest diversion and LEAD and providing recommendations to resolve the case.

c. **The City, by and through the Atlanta Office of the Public Defender**, is committed to participating in Atlanta / Fulton County Pre-Arrest Diversion/LEAD through staffing and providing ancillary legal services to participants.

The Public Defender or senior-level designee will participate in the Atlanta / Fulton County PAD/LEAD Policy Coordinating Group, including attending quarterly meetings and participating in occasional technical assistance and training opportunities.

The Public Defender will assign appropriate staff to participate on the OWG. This includes reviewing diversion referrals, participating in monthly OWG meetings, and identifying and tracking PAD participants' open cases and other legal barriers. The appointees to the OWG will act as a liaison between the PAD care navigators and attorneys for any old or new criminal cases that PAD participants may have.

The Office of the Public Defender will provide ancillary legal services to PAD participants as appropriate, including assistance with Identification and Driver's License reinstatement, benefit restoration, immigration, and other civil legal matters.

2. **The County, by and through the Office of the Fulton County Manager**, is committed to providing support for the implementation, expansion and sustainability of the Atlanta / Fulton County Pre-Arrest Diversion Initiative through the LEAD model.

**Staffing.** The Deputy Chief Operating Officer for Public Safety will participate in the Atlanta / Fulton County PAD/LEAD Policy Coordinating Group, including attending quarterly meetings and participating in occasional technical assistance and training opportunities;

**Cross-sector Collaboration.** The County Manager's Office will facilitate collaboration with relevant County agencies to address the complex legal and social service needs that create barriers to stability and success for diverted individuals;

**Data Tracking & Reporting.** The County Manager's Office will facilitate the establishment of a Data Sharing Agreement with the relevant agencies in order to ensure timely and efficient access to County criminal justice and human services data in support of evaluating the impact and effectiveness of Atlanta / Fulton County Pre-Arrest Diversion/LEAD, to the extent allowed by law. This may include State and Superior Courts, Fulton County Sheriff's Office, and other County agencies.

- a. **The County, by and through the Fulton County Department of Behavioral Health and Developmental Disabilities (DBHDD)**, as a department of the County, is committed to participating in the Atlanta / Fulton County Pre-Arrest Diversion Initiative through the LEAD model.

The Director of DBHDD will participate in the Atlanta / Fulton County PAD/LEAD Policy Coordinating Group, including attending quarterly meetings and participating in occasional technical assistance and training opportunities;

DBHDD will provide consultation and operational technical assistance in the development of appropriate community behavioral health services necessary to the success of the Atlanta / Fulton County Pre-Arrest Diversion through the LEAD model;

DBHDD will serve as the fiduciary pass-through agency for County funds directed to the initiative.

- b. **The Fulton County District Attorney** is committed to participating in the Atlanta / Fulton County Pre-Arrest Diversion/LEAD through the authorization of prosecutorial staff to seek creative solutions for cases involving participants.

The District Attorney or senior-level designee will participate in the Atlanta / Fulton County PAD/LEAD Policy Coordinating Group, including attending quarterly meetings and participating in occasional technical assistance and training opportunities.

The District Attorney will assign appropriate staff to serve on the OWG, where the appointee will review and initiate diversion referrals, identify and track PAD participants' open cases and other legal barriers, and participate in monthly OWG meetings. The appointee will also act as a liaison between the PAD care navigators and prosecuting attorneys for any old or new criminal cases that PAD participants may have, which includes educating the prosecuting attorney about pre-arrest diversion and the LEAD model and providing recommendations to resolve the case.

- c. **The Fulton County Solicitor General** is committed to participating in the Atlanta / Fulton County Pre-Arrest Diversion/LEAD through staffing, and the authorization of prosecutorial staff to seek creative solutions for cases involving participants.

The Solicitor General or senior-level designee will participate in the Atlanta / Fulton County PAD/LEAD Policy Coordinating Group, including attending quarterly meetings and participating in occasional technical assistance and training opportunities.

The Solicitor General will assign appropriate staff to serve on the OWG, where the appointee will review and initiate diversion referrals, identify and track PAD participants' open cases and other legal barriers, and participate in monthly OWG meetings. The appointee will also act as a liaison between the PAD care navigators and prosecuting attorneys for any old or new criminal cases that PAD participants may have, which includes educating the prosecuting attorney about pre-arrest diversion and the LEAD model and providing recommendations to resolve the case.

- d. **Fulton County Office of the Public Defender** is committed to participating in the Atlanta / Fulton County Pre-Arrest Diversion/LEAD through staffing and providing ancillary legal services to participants.

The Public Defender or senior-level designee will participate in the Atlanta / Fulton County PAD/LEAD Policy Coordinating Group, including attending quarterly meetings and participating in occasional technical assistance and training opportunities.

The Public Defender will assign appropriate staff to participate on the Operational Working Group. This includes reviewing diversion documents within 48 hours of a referral, participating in monthly Operational Working Group meetings, and identifying and tracking PAD participants' open cases and other legal barriers. The appointees to the Operations Workgroup will act as a liaison between the PAD care navigators and attorneys for any old or new criminal cases that PAD participants may have.

3. **Atlanta/Fulton County Pre-Arrest Diversion Initiative, Inc.** ("PAD Initiative") is committed to assisting all stakeholders with the implementation and operation of the Atlanta / Fulton County Pre-Arrest Diversion/LEAD as described in Section C.

The PAD Initiative will manage the daily operations of Atlanta / Fulton County Pre-Arrest Diversion through the LEAD model, including stakeholder coordination, law enforcement training, fundraising, and management of evaluation and service provision contracts. The PAD Initiative will convene and facilitate the PCG and OWG.

The PAD Initiative will facilitate the formation of an independent Community Leadership Team, in order to continuously engage diverse stakeholders, including business owners, neighborhood representatives, elected officials, social service providers, advocates, and directly impacted communities to act in an advisory capacity to Atlanta / Fulton County Pre-Arrest Diversion/LEAD agency partners.

#### **E. Governance**

1. Participation in the PCG is voluntary, and any member may withdraw unilaterally at any time for any reason with ten days written notice to the other parties.

2. This 2021 MOU does not amend any law or ordinance; nor does it create any binding obligation on the part of any signatory. This 2020 MOU simply memorializes the intent of the PCG members in participating in the Atlanta / Fulton County Pre-Arrest Diversion Initiative through the LEAD model and describes the responsibilities they understand to be accepting through their participation.

3. All decisions of the PCG and OWG shall be made by consensus. For purposes of this 2021 MOU, this means a resolution that is acceptable to all participants even if not ideal to one or more.

4. Each member organization shall designate one representative for purposes of determining consensus in all PCG and OWG decisions, but multiple representatives from each organization may attend meetings and participate in discussions, as non-voting representatives. The Managing Entity shall not have any decision-making role in the PCG nor the OWG and will act in an advisory capacity only.

5. This 2021 MOU shall be effective as of the date it is signed by all parties. It shall remain in effect through June 30, 2023, unless amended or terminated. No amendment or modification of this 2021 MOU will have effect unless it is made in writing and agreed to by all signatories or their successors.

#### **F. No Liability:**

Participation in this 2021 MOU by any party shall not in way waive any immunities, defenses, or legal protections available at law to any member organizations or and members or participants in these organizations.

**G. Termination**

Notwithstanding anything contained herein to the contrary, the Parties may agree to terminate this 2021 MOU without cause upon vote of the Parties.

**H. Modifications**

This 2021 MOU may be modified at any time by written agreement of the Parties, with such modification being subject to approval by the governing bodies of the Parties.

**I. Notices**

For purposes of this 2021 MOU, any notices required to be sent to the Parties shall be hand delivered or mailed to the addresses provided below:

**The County**

Department of Behavioral Health and Developmental Disabilities  
Attn: LaTrina Foster, LPC  
141 Pryor Street, SW  
Suite 1031  
Atlanta, Georgia 30303

With a concurrent copy to:

Fulton County Attorney  
Office of the Fulton County Attorney  
141 Pryor Street, S.W.  
Suite 4038  
Atlanta, GA 30303

**The City**

CITY OF ATLANTA  
55 Trinity Avenue S.W.  
Atlanta, Georgia 30303  
Attn:

**Atlanta/Fulton County Pre-Arrest Diversion Initiative, Inc.**

Attn: Moki Macías  
236 Forsyth Street, SW  
Suite 200  
Atlanta, Georgia 30303

**J. General Provisions**

1. If any part of this 2021 MOU is found to be invalid or unenforceable, or is otherwise stricken, the rest of this MOU shall remain in full force and effect.



2. This 2021 MOU constitutes the entire agreement between the Parties. It supersedes any prior oral understandings between them with respect to the matters addressed herein.
3. Waiver of any term or condition of this 2021 MOU shall be effective in writing and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this MOU. Nothing herein shall constitute or be considered a limitation upon or waiver of the Parties' rights under applicable law.
4. This 2021 MOU is entered into for the exclusive benefit of the undersigned parties and is not intended to create any rights, powers, or interests in any third party. Fulton County, including its respective officers, officials, employees, or agents, shall not be liable to third parties by any act or omission of the other party.
5. This 2021 MOU shall be governed by the laws of the State of Georgia.
6. This 2021 MOU may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original without the production of any other counterpart. Any signature delivered via facsimile or other electronic means shall be deemed an original signature hereto.

[Signatures On Following Pages]

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals this the 11<sup>th</sup> day of June, 2021.

FULTON COUNTY, GEORGIA

Approved:

[Signature]

Robert L. Pitts, Chairman  
Fulton County Board of Commissioners

Attest:

[Signature]  
Tonya R. Grier  
Clerk to the Commission (Seal)



Approved as to Content:

[Signature]

LaTrina Foster, LPC, Director  
Fulton County BHDD

Approved as to Form:

[Signature]  
Office of the County Attorney

Approved As To Content:

[Signature]  
Fulton County District Attorney

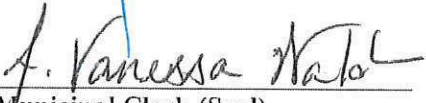
Approved As To Content:

[Signature]  
Fulton County Solicitor

ITEM # 21-0068 RCS 1/20/21  
RECESS MEETING

CITY OF ATLANTA

  
Keisha Lance Bottoms, Mayor

  
Municipal Clerk (Seal)

A. Vanessa Walden  
Deputy Municipal Clerk

Approved As to Content:

DocuSigned by:  
  
3FD4649C0A404C7  
City of Atlanta Chief Operating Officer

Approved As to Content:

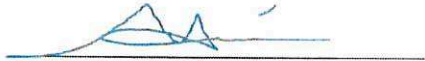
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B1E4EF994542485  
City of Atlanta Solicitor

Approved As To Form:

DocuSigned by:  
 Senior Attorney  
43430051B8A442E  
City Attorney

**ATLANTA/FULTON COUNTY PRE-ARREST DIVERSION INC.**

Approved:



Moki Macías  
Executive Director

Attest:

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