

WEDNESDAY, NOVEMBER 29, 2023

MEMORANDUM OF AGREEMENT

BY AND AMONG

FULTON COUNTY, GEORGIA,

DEKALB COUNTY, GEORGIA

THE FULTON-DEKALB HOSPITAL AUTHORITY

AND

GRADY MEMORIAL HOSPITAL CORPORATION

JANUARY 1, 2024

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MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (the “Agreement”) is made and entered into this 1st day of January, 2024 (the “Effective Date”), by and among FULTON COUNTY, a political subdivision of the State of Georgia, acting by and through its Board of Commissioners (“Fulton County”), DEKALB COUNTY, a political subdivision of the State of Georgia, acting by and through its governing authority (“DeKalb County”) (collectively referred to as the “Counties”), THE FULTON-DEKALB HOSPITAL AUTHORITY, a public body corporate and politic, created and existing under the laws of the State of Georgia, acting by and through its Board of Trustees (the “Authority”), and GRADY MEMORIAL HOSPITAL CORPORATION, d/b/a Grady Health System, a Georgia nonprofit corporation, acting by and through its Board of Directors (“GMHC”). Fulton County, DeKalb County, the Authority and GMHC each, individually, are referred to as a “Party” and, collectively, referred to herein as the “Parties”.

WITNESSETH

WHEREAS, the Authority was created jointly by Fulton County and DeKalb County in 1941 pursuant to the Georgia Hospital Authorities Law as it then existed (and now codified in O.C.G.A. §31-7-70 *et seq.*), as amended (the “Act”), for the purpose of addressing the medical care needs of their residents and the acquisition and construction of hospital facilities to serve such residents;

WHEREAS, the Counties, the Authority, and GMHC are authorized, pursuant to provisions of the Constitution of the State of Georgia and the Act, to contract for the provision of medical services and to provide financing for the facilities necessary for the provision of such medical services;

WHEREAS, in 1945, the Authority acquired the land, buildings and equipment which then constituted the Grady Memorial Hospital from the City of Atlanta and the Authority and the Counties entered into an operating contract in connection therewith (the “1945 Contract”);

WHEREAS, in order to provide for a new hospital, the Authority and the Counties entered into a 30-year contract in 1953 (the “1953 Contract”) under which the Counties agreed to pay debt service on the revenue bonds used to finance the construction of new facilities for Grady Memorial Hospital and to provide funding for its operation;

WHEREAS, the 1953 Contract was superseded by a subsequent 30-year contract among the Authority and the Counties made effective as of January 1, 1984 (the “Successor Contract”) which provided for the financing of certain renovations to the facilities and the Authority’s obligation to provide payment for, among other things, indigent care, care for the Counties’ employee workforce, emergency and trauma services, and care for incarcerated persons;

WHEREAS, to facilitate the financing of various improvements and other capital expenditures with respect to Grady Memorial Hospital and its related facilities, the Successor Contract was amended by Amendment Number One to Contract, dated December 30, 1987; amendment Number Two to Contract, dated July 14, 1988; Amendment Number Three to Contract, dated December 29, 1988; Amendment Number Four to Contract, dated June 22, 1989;

and Amendment Number Five to Contract, dated December 14, 1989 (the Successor Contract as amended, the “1984 Contract”);

WHEREAS, the Counties and the Authority approved a Lease and Transfer Agreement, effective May 20, 2008 (the “Lease and Transfer Agreement”), by and between the Authority and GMHC, pursuant to which operational control of substantially all assets comprising the Grady Health System, anchored by Grady Memorial Hospital, were leased or transferred by the Authority to GMHC, without assignment or modification of the 1984 Contract, except for inclusion of a provision for payment by the Authority to GMHC of monies received from the Counties under the 1984 Contract, as set forth in the Lease and Transfer Agreement;

WHEREAS, Fulton County and the Authority entered into a Memorandum of Understanding as approved by the Authority on April 27, 2009 and as finally approved by Fulton on May 6, 2009 in order to provide guidance in interpreting certain terms or provisions in the 1984 Contract and certain other agreements between Fulton County and the Authority, as amended by the First Amendment to Memorandum of Understanding dated November 4, 2009 (collectively, the “MOU”);

WHEREAS, in 2011 the MOU was superseded by an Amended and Restated Memorandum of Understanding between Fulton County and the Authority with an effective date of January 1, 2012 (the “2011 MOU”);

WHEREAS, the term of the 1984 Contract was extended for a two-year period ending December 31, 2015 by resolutions adopted by the Fulton County Board of Commissioners on July 17, 2013 and by the DeKalb County Governing Authority on October 8, 2013 and was continuously so extended, with its final extension terminating on December 31, 2023;

WHEREAS, over time, the Grady Facilities, anchored by Grady Memorial Hospital, subject to the 1945 Contract, the 1953 Contract, the 1984 Contract, and the Lease and Transfer Agreement have developed into an integrated academic medical center health system, with a nationally recognized trauma center and residency teaching programs operated by GMHC for the benefit of the community (the “Grady Health System”);

WHEREAS, the Parties recognize GMHC’s ability to provide and expand services through the Grady Health System to the community at the level of quality required by this Agreement is dependent on a secure source of funding as described herein; and

WHEREAS, the Parties are entering into this Agreement in order:

- To align the Parties in their collective efforts to facilitate the passage of Medicaid Expansion during the State of Georgia 2024 legislative session and successive legislative sessions until Medicaid Expansion is achieved;
- To facilitate the sharing of information regarding Grady Health System’s operation with Fulton and DeKalb Counties and other relevant partners;

- To expand access to primary and specialty care services through the creation of new neighborhood health centers in Fulton County and DeKalb County operated by Grady Health System;
- To add mobile health services through mobile health vans and mobile mammography vans operated by Grady Health System or partnered with existing mobile health services to reach patients in areas of need within the Counties;
- To establish objective health, access, and health equity improvement measures to measure the impact the expansion of services has on the overall health of the communities served;
- To establish consistent and reliable funding of Grady Health System from Fulton County and DeKalb County;
- To establish a system of fixed support payments to sustain Grady Health System's operations, to fund a portion of the operating costs of new neighborhood health centers, and ensure funding for the provision of care to the uninsured in the Counties;
- To provide budgetary certainty to the Counties; and
- To establish objective health outcome measures, and health equity improvement measures to evaluate the impact the expansion of services has on the overall health of communities served.

NOW, THEREFORE, in consideration of the mutual undertakings as hereinafter set out, it is agreed between and among Fulton County, DeKalb County, the Authority, and GMHC, each acting by and through its duly authorized officers, pursuant to resolutions duly and properly adopted:

ARTICLE I MEDICAID EXPANSION

A. Medicaid Expansion. The Parties agree that Medicaid Expansion is critical to advancing the health and wellness of all residents of Fulton and Dekalb Counties.

B. Coordinated Legislative Effort. Prior to and during the 2024 session of the Georgia General Assembly, the Parties shall coordinate certain government affairs and lobbying efforts, with the goal of achieving Medicaid Expansion during the 2024 legislative session. The Parties further agree that each will make pursuit of Medicaid Expansion during the 2024 legislative session a public policy priority, and each will devote appropriate resources to achieving Medicaid Expansion during the 2024 legislative session. The Parties also agree to continue to coordinate government affairs and lobbying efforts toward achieving Medicaid Expansion in successive legislative sessions as appropriate should Medicaid Expansion not be achieved during the 2024 legislative session.

ARTICLE II
OBLIGATIONS OF GMHC

A. General Operations of GMHC.

1. Health Care Services.

(a) Facilities. GMHC shall maintain and make the Grady Facilities available to the residents of Fulton County and DeKalb County who require medical aid and hospitalization.

(b) Neighborhood Health Centers. During the Initial Term GMHC shall establish, own, and operate two new neighborhood health centers in Fulton County and three new neighborhood health centers in DeKalb County (the “Neighborhood Health Centers”). Each Neighborhood Health Center will serve all patients regardless of ability to pay, including the insured, underinsured, and uninsured. Each Neighborhood Health Center will be operated by GMHC in accordance with the following principles, as reasonably determined by GMHC:

- (i) GMHC will incorporate its existing social determinants of health assessment and navigation assistance.
- (ii) GMHC will incorporate its existing community-based care model.
- (iii) Support for patients will include mental health, social services, navigation services, nutritional support, and pharmacy services. GMHC will partner with smaller physician practices to provide access to many of these services.
- (iv) Operating hours will be determined based on patient volumes. GMHC will use commercially reasonable efforts to expand hours during the week and on weekends, provided patient volumes can support the additional operating hours.
- (v) Specialty care services will be provided based on the needs of the population served by the Neighborhood Health Center as determined by healthcare needs assessments.

(c) Trauma and Emergency Care. GMHC shall maintain and have facilities available to take care of emergency and trauma care cases, affecting the residents of the Counties or transients where an accident takes place, or an emergency arises, within the corporate limits of the Counties. The Counties recognize GMHC is obligated under federal law to provide Emergency Medical Treatment to all persons who present to its emergency department without regard to their ability to pay for such services, and that any payments received from such patients are insufficient to support the operation of GMHC’s trauma center and emergency department.

(d) Data Sharing Agreement. GMHC shall facilitate sharing of information regarding Grady Health System’s operations within Fulton & DeKalb Counties and other relevant partners.

(e) Mobile Health Services. GMHC shall add mobile health services through health vans and mobile mammography vans operated by Grady Health System or partnered with existing mobile health services to reach patients in areas of need.

(f) Objective Outcome Measures. In conjunction with Fulton & DeKalb County GMHC will establish objective health, access, and health equity improvement measures to evaluate the impact the expansion of services has on the overall health of the communities serviced.

(g) County Employee Workforce Injury and Departments of Corrections Care. GMHC shall make the Grady Facilities available for care to:

- (i) Employees of the Counties who are injured in the line of duty and in the service of such Counties, and
- (ii) Persons who are in custody of law enforcement and/or incarcerated within the jails and/or Departments of Corrections of the Counties

at no cost to such employees and such persons in custody or incarcerated or to the counties after application of all available insurance coverages.

(h) Access to Other Funds Not Limited. Nothing herein shall prevent GMHC from billing for, receiving, and collecting from insurance or other sources funds covering the cost of medical care or hospitalization of patients provided care pursuant to this Section A.1; and GMHC shall likewise have full rights against any sums paid by tortfeasors or others under liability for medical care and/or hospitalization of such patients. Any such funds received by GMHC shall not reduce the amount of the Support Payments.

2. Comparable Services. The rendering of medical aid and hospitalization as above provided shall be in keeping with usual services rendered by hospitals of like size and character and to the extent facilities are available. Specifically, GMHC shall operate with an underlying mission to provide medical services to uninsured, underinsured, and indigent patients regardless of ability to pay consistent with the requirements of Section 501(r) of the Internal Revenue Code (the "Code").

3. Accreditation. GMHC shall maintain compliance with the most current version of the Joint Commission's Hospital Accreditation Standards applicable to the Grady Health System, or those of other applicable accrediting bodies as selected by GMHC.

4. Medicare and Medicaid Participation. GMHC shall maintain its participation as an enrolled provider in the Medicare and Medicaid Programs.

5. Non-Discrimination in Purchasing and Contracting; Utilization of Minority Business Enterprises. GMHC shall make good faith efforts to assure that the purchasing and contracting activities and practices of GMHC do not prevent a fair and reasonable level of participation by minority business enterprises, to the extent consistent with applicable federal, state, and local laws. GMHC shall make good faith efforts to achieve at least twenty percent (20%) participation by qualified minority enterprises in business contracts of GMHC at all times. GMHC

shall annually determine the utilization level of minority business enterprises of GMHC and make reports to the Counties and the Authority in connection therewith. In purchasing and contracting activities and practices, GMHC will not discriminate on the basis of race, sex, color, or national origin in the making of purchases or awarding of contracts. Nothing in this Section shall serve to modify Section 5.21 of the Lease & Transfer Agreement.

6. Equal Employment Opportunity and Non-Discrimination in Personnel Matters. GMHC shall provide employment free from discrimination due to race, sex, color, religion, national origin, or age. Toward this end, GMHC shall maintain and operate in accordance with an affirmative action plan adopted and maintained in accordance with local, state, and federal law, which identifies procedures, practices, and policies which inhibit equal employment opportunity; and which defines specific activities to eliminate such procedures, practices and policies within reasonable time limits.

7. Patient Rights. Consonant with the basic rights of human beings to maintain the opportunity for the expression of personal dignity, GMHC shall provide an environment in which the patient is reasonably informed as to such patient's rights and responsibilities. GMHC has a "Statement of Patient Rights and Responsibilities" which is posted and provided to admitted patients. GMHC agrees to maintain in effect such statement or a similar such statement as it may be amended from time to time, as to patient rights.

B. Charitable Purposes and Academic Teaching Mission.

1. Tax Exempt Status. GMHC is organized exclusively for charitable and educational purposes consistent with the provisions of Section 501(c)(3) of the Code.

2. Obligation to Support Medical Education. The primary mission of GMHC is to (i) improve the health of the community by providing quality, comprehensive health care in a compassionate, culturally competent, ethical, and fiscally responsible manner, (ii) commit to serve the underserved of the Counties, while also providing care for residents of metro Atlanta and Georgia, and (iii) lead through its clinical excellence, innovative research, and progressive medical education and training, all as consistent with the provisions of Section 501(c)(3) of the Code. GMHC also has a core mission to support academic medical education, to act as a teaching hospital in the community, and to support research, residency programs, and educational health care programs for the benefit of the community.

3. Residency Programs. GMHC has and may maintain contractual arrangements with affiliated medical schools in the community, and such medical school(s) provide professional supervision of the residency programs and teaching programs at the Grady Health System.

ARTICLE III OBLIGATIONS OF THE AUTHORITY

A. Capital Project Funds. In order to carry out its obligations under this Agreement, it is anticipated that during the Term it will be necessary for GMHC to obtain funds beyond those available from ordinary operating income with which to acquire, construct, alter, repair, renovate, improve, and equip existing and additional facilities and projects for use in rendering medical care

and hospitalization services consistent with the terms of the Lease and Transfer Agreement. The Authority and the Counties may assist GMHC in financing such alterations, repairs, renovations and improvements and to make such acquisitions and to construct and equip such new facilities as may be determined necessary for such purposes.

B. Revenue Obligations. In order to obtain funds with which to carry out the foregoing, it is anticipated that the Authority will issue its revenue obligations from time to time. Should the issuance of such revenue obligation be deemed appropriate by the Parties, applicable resolutions and amendments to this Agreement or separate agreements shall be presented to the Parties for approval to provide for the specifics of such issuance.

C. Notice of Capital Plans to Counties. GMHC agrees to provide long-range plans to the Counties and the Authority updated so that the requirements of the financing described in Article IV, Section A will be anticipated at least five years in advance.

D. Receipt of Payments. The Authority shall promptly pay to GMHC all funds received from the Counties pursuant to this Agreement without setoff or deduction.

ARTICLE IV OBLIGATIONS OF COUNTIES

A. Financing of Grady Facilities and Projects. The Counties shall pay the Debt Service required on Bond Contracts. Amounts due under this Article IV, Section A shall not reduce, and shall not result in any setoff against, the Support Payments or other amounts otherwise due pursuant to this Agreement.

B. Support Payments. During the Term, the Counties shall pay to the Authority for the benefit of GMHC in and for each calendar year to partially defray the operating expenses of the Grady Health System cash in amounts determined as follows.

1. Beginning on January 2, 2024, DeKalb County shall pay monthly to the Authority for the benefit of GMHC cash in an amount equal to \$1,589,793 (1/12 of \$19,077,505). Beginning January 2, 2025, DeKalb County shall pay monthly to the Authority for the benefit of GMHC cash in an amount equal to \$2,104,584.17 (1/12 of \$25,255,010), each such payment a "Support Payment"

Beginning January 2, 2024, Fulton County shall pay monthly to the Authority for the benefit of GMHC cash in an amount equal to \$3,608,155.83 (1/12 of \$43,297,870), each such payment a "Support Payment".

2. Subsequent Years Funding. For Fulton County, commencing on January 1, 2025, and on January 1 of each year thereafter during the Term, the Support Payment for the preceding year will be revised to reflect an amount equal to the percentage change in the Consumer Price Index, Medical Care for the preceding calendar year as reported by the U.S. Bureau of Labor Statistics, and such revised amount shall be payable to GMHC on the first business day of January and each succeeding month during the remainder of the Term.

For DeKalb County, commencing on January 1, 2026, and on January 1 of

each year thereafter during the Term, the Support Payment for the preceding year will be revised to reflect an amount equal to the percentage change in the Consumer Price Index, Medical Care for the preceding calendar year as reported by the U.S. Bureau of Labor Statistics, and such revised amount shall be payable to the Authority for the benefit of GMHC on the first business day of January and each succeeding month during the remainder of the Term

3. Non-Discretionary Spending. Each County's annual budgeting process will reflect the Support Payments in the amounts set forth in this Agreement. The Support Payments will be considered non-discretionary spending. To the extent that either County elects to use the funding authorization under O.C.G.A. §31-7-84, this Agreement represents the determination by such County to appropriate and pay to GMHC certain revenue, as determined by the County, generated from such funding authorization for the support of the operations of GMHC.

4. Termination Following Medicaid Expansion. If Medicaid Expansion occurs, then the obligation to pay Support Payments shall terminate effective January 1 of the year following the full enrollment window occurring into the Georgia Medicaid program for the newly eligible expansion population.

5. Changes to the Medicaid Program. If the Centers for Medicare and Medicaid Services approve a Medicaid program waiver (or other change in the Medicaid program which is not Medicaid Expansion) for the State of Georgia during the Term, the Parties will meet and confer to determine the impact on GMHC's participation in the Georgia Medicaid program, if any, and the funding obligations set forth in this Article IV.

6. Availability of Public Funding. The parties acknowledge that the Counties are governmental entities, and the Agreement's validity is based upon the availability of public funding under the Counties' authority. In the event that public funds are unavailable and not appropriated for the performance of the Counties' obligations under this Agreement, then this Agreement shall automatically expire, without penalty to the Counties after written notice to the Parties of the unavailability and non-appropriation of public funds, provided, however, that the Counties shall remain liable for the services rendered up to the time of providing notice to the Parties under this Agreement. It is expressly agreed that the Counties shall only activate this non-appropriation provision as an emergency fiscal measure. The Counties shall not activate this non-appropriation provision for its convenience, to circumvent the requirements of this Agreement.

ARTICLE V TERM AND TERMINATION

A. Term. This Agreement is entered into for a term of six (6) years commencing January 1, 2024 and ending December 31, 2029 (the "Initial Term"), unless sooner terminated in accordance with the provisions hereof; provided, however, that the Agreement within the initial and all renewal terms shall end on December 31 each year and automatically renew pursuant to the requirements of O.C.G.A. § 36-60-13. Upon the expiration of the Initial Term of this Agreement, this Agreement shall automatically renew for two (2) additional, successive terms of two (2) years each (each a "Renewal Term" and together with the Initial Term, the "Term"), unless, on or before one hundred eighty (180) days prior to the expiration of the Initial Term or the then-current Renewal Term, any Party provides written notice of such Party's intention not to renew this Agreement for an additional Renewal Term.

B. Termination. If any Party hereto believes that another Party has acted or failed to act in a manner that constitutes a material breach of this Agreement, such non-breaching Party shall provide written notice to the breaching Party and the other Parties, and the breaching Party shall have forty-five (45) days in which to prepare and submit a plan of correction to the non-breaching Party. If the breaching Party fails to submit a plan of correction that the Parties agree is reasonable within forty-five (45) days, the non-breaching Party may immediately terminate this Agreement. If the breaching Party submits a plan of correction that the Parties agree is reasonable, but thereafter the breaching Party has not substantially carried out the plan of correction within ninety (90) days from agreement on the plan, the non-breaching Party may immediately terminate this Agreement.

ARTICLE VI MEETINGS

A. Quarterly Meetings. Each calendar quarter during the Term the Chief Executive Officers of GMHC and the Authority, the DeKalb County Executive Assistant/COO, and the County Manager of Fulton County, or their respective designees, shall meet to discuss matters relevant to the operation of Grady Health System, including without limitation finances, capital needs, and staffing, and performance measures attainment.

B. Semi-Annual Meetings. Twice each calendar year during the Term the Chief Executive Officers of GMHC and the Authority shall make themselves or their designees available to meet with the Boards of Commissioners of each County to provide an overview of Grady Health System and discuss issues related to Fulton and DeKalb Counties and the health of the Atlanta community.

ARTICLE VII DISPUTE RESOLUTION

A. Definition of Dispute. “Dispute” means any and all questions, claims, controversies, or disputes arising out of or relating to this Agreement, including the validity, construction, meaning, performance, effect, or breach of this Agreement, unless specifically excluded by the terms of the Agreement.

B. General Principles; Enforcement Rights. In the event of any Dispute among any of the Parties, the Parties shall promptly, amicably, confidentially and in good faith resolve such Dispute exclusively in accordance with the process set forth in this Article VII.

C. Negotiation. In the event of any Dispute among any of the Parties, the Parties shall first attempt to resolve such Dispute through negotiations. A disputing Party shall give written notice of the Dispute to the other Parties that shall contain a brief statement of the nature of the Dispute. The negotiations will be conducted by a five (5) member panel comprised of the Fulton County Commission Chair, the DeKalb County Chief Executive Officer, the Fulton-DeKalb Hospital Authority Board of Trustees Chair, the GMHC Board of Directors Chair (collectively, the “Standing Members”), and one (1) representative chosen by the unanimous consent of the Standing Members (the “Neutral Member”). The panel shall meet to discuss the Dispute. If the panel reaches a unanimous decision to resolve the Dispute, the Parties agree that decision shall be binding with respect to the subject matter thereof. If the panel is unable to resolve the Dispute

unanimously within sixty (60) days of receipt by the Party of the written notice of Dispute, the Parties shall submit the Dispute to mediation as set forth below.

D. Mediation. In the event negotiation is unsuccessful, Disputes shall be subject to mediation conducted as follows:

1. Commencement of Mediation. Any Party wishing to commence mediation shall send a written notice of intent to mediate to the other Parties, specifying in detail the nature of the Dispute and proposing a resolution thereof (“Mediation Notice”). Within fifteen (15) days after such Mediation Notice is delivered by a Party, if the Parties cannot agree on a proposed mediator, The Authority shall contact the JAMS alternative dispute resolution service (“JAMS”) who shall submit a list of ten (10) people, all of whom shall be practicing attorneys who have expertise with mediating controversies involving complex commercial healthcare transactions or the subject of the particular dispute involved, to the Neutral Member. The Neutral Member shall select one person from the list to serve as the mediator. Each Party shall designate no more than three (3) representatives who shall meet with the mediator to mediate the dispute. Mediation shall be commenced as soon as reasonably possible. The mediator shall be a person having no conflict of interest relationship with a Party.

2. Conduct of Mediation. The mediation shall be conducted in Atlanta, Georgia in accordance with the Commercial Mediation Rules and Procedures of JAMS and shall be non-binding. Any non-binding mediation conducted under the terms of this Section shall be confidential within the meaning of Georgia law. Each Party shall bear its own costs and expenses and an equal share of the mediator’s fees and administrative fees of mediation, if any. If at any time more than eight (8) hours into the mediation conference the mediator determines that the controversy cannot be settled in mediation, the mediator may declare an impasse and the mediation process shall end at that point. The mediation must be conducted and completed within thirty (30) days of the date a mediator has been selected or appointed. All applicable statutes of limitation and defenses based upon the passage of time will be tolled for the duration of any negotiation and mediation pursuant to this Agreement.

3. Disagreement. Should the mediation not achieve a solution agreeable to all Parties, any Party shall be entitled to seek and obtain from any court of competent jurisdiction any legal and equitable remedy to which such Party may be entitled, including without limitation money damages, specific performance, injunctive relief, or other equitable remedies to enforce specifically the terms and provisions of this Agreement or to prevent or curtail any threatened or actual breach of this Agreement.

ARTICLE VIII DEFINITIONS

The following terms shall have the following meanings and shall be applicable to this Agreement unless the context indicates a different meaning.

“Act” means the Georgia Hospital Authorities Law (O.C.G.A. §§31-7-70 *et seq.*), as amended.

“Additional Bonds” means any bonds, notes or certificates issued by the Authority after the date hereof for the purpose of funding the acquisition, construction, equipping, or financing of any Grady Facilities or to fund the operations thereof which are secured by a Bond Contract.

“Bond Contracts” means any contracts or agreements between the Authority and one or both of the Counties relating to the payment of debt service or other amounts with respect to the Existing Bonds and any Additional Bonds hereafter issued by the Authority with the approval of one or both of the Counties with respect to any of the Grady Facilities.

“Bond Payments” means the debt service payments by each County required under any Bond Contract with respect to the Existing Bonds and any Additional Bonds.

“Bonds” means the Existing Bonds and any Additional Bonds.

“Counties” mean DeKalb County and Fulton County.

“Debt Service” or “debt service” shall mean the amount or amounts required for the repayment of any sum or sums borrowed and interest thereon, not including bank loans payable within the year such loan is made, and shall include the payment of principal and interest as well as any reserves required and expenses incurred by the Authority and GMHC in connection with the issuance of any Bond Contracts, revenue anticipation certificates, bonds or notes which are currently outstanding (“Bonds”) or any additional bonds which may at any time during the life of this Agreement be issued by the Authority (“Additional Bonds”).

“Emergency Medical Treatment” shall mean and refer to those emergency medical services described in the Emergency Medical Treatment and Labor Act, 42 U.S.C. §1395dd and the provisions of O.C.G.A. §31-11-80 *et seq.*, as the same may hereafter be amended.

“Existing Bond Contracts” means , including, without limitation, (i) that certain Contract dated as of May 7, 2020 (the “2020 Fulton Contract”) between the Authority and Fulton County, (ii) that certain Contract dated as of May 21, 2020 (the “2020B DeKalb Contract”) between the Authority and DeKalb County; and (iii) that certain Ponce de Leon Contract (Fulton) dated December 8, 2021 (the “Ponce Contract”) between the Authority and Fulton County.

“Existing Bonds” means the Authority’s (i) Revenue Certificates (Grady Surgical Center Project) Series 2020A issued by the Authority in the original principal amount of \$66,920,000 secured by the 2020A Fulton Contract, (ii) Revenue Certificates (Grady Surgical Center Project) Series 2020B issued in the original principal amount of \$33,630,000 secured by the 2020B DeKalb Contract; and (iii) Revenue Certificates (Ponce de Leon Center Project), Series 2021 issued in the original principal amount of \$8,025,000 secured by the Ponce Contract.

“Grady Facilities” means Grady Memorial Hospital and any other facilities including but not limited to the neighborhood health centers and health care services now or hereafter owned or operated or leased by GMHC as reasonably determined by GMHC to be appropriate for use in rendering health care or hospitalization located in Fulton County, Georgia or DeKalb County, Georgia.

“Joint Commission” means The Joint Commission or any other nationally recognized health care accrediting agency or organization selected by GMHC that has been granted “deeming authority” for the accreditation of hospitals by the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services.

“Medicaid Expansion” means expansion of Medicaid coverage without limitation or qualification to all people in Georgia with household incomes below 138% of the Federal Poverty Level (as determined annually by the U.S. Department of Health and Human Services) pursuant to legislation passed by the Georgia General Assembly and approved by the Governor of Georgia, which expansion of coverage is reflected in a state plan amendment approved by the Centers for Medicare and Medicaid Services (“CMS”) and certified by CMS to have been fully implemented.

ARTICLE IX GENERAL COVENANTS

A. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Georgia.

B. Amendments; Waiver. This Agreement may only be amended in a writing executed by all of the Parties hereto. Any such amendment shall in no respect adversely affect the rights of third parties. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

C. Expenses. Except as otherwise expressly provided herein, all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors, and accountants, incurred in connection with this Agreement shall be paid by the Party incurring such costs and expenses.

D. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); or (c) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses:

E. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

F. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

G. Entire Agreement. This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

H. Lease and Transfer Agreement. The Authority and GMHC agree that nothing in this Agreement shall amend, waive, or otherwise modify any provision of the Lease and Transfer Agreement, including without limitation the oversight responsibilities of the Authority pursuant to the Lease and Transfer Agreement.

I. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. No Party may assign its rights or obligations hereunder without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.

J. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement, including without limitation, any rights of private action with respect to Article II.

K. Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

L. Compliance with Laws. The Parties agree to carry out the terms of this Agreement in compliance with applicable law, including, but not limited to, the provisions of the Act.

[Signature Page Follows.]

IN WITNESS WHEREOF, the Parties hereto, acting through their duly authorized officers, have caused this Agreement to be executed in triplicate the day and year first above written.

FULTON COUNTY, GEORGIA

By: _____
Chair, Board of Commissioners

ATTEST:

(SEAL) Clerk

DEKALB COUNTY, GEORGIA

By: _____
Chief Executive Officer

ATTEST:

(SEAL) Clerk

THE FULTON-DEKALB HOSPITAL
AUTHORITY

By: _____
Chair, Board of Trustees

Secretary, Board of Directors

GRADY MEMORIAL HOSPITAL
CORPORATION

By: _____
Chair, Board of Directors