

**AMENDED AND RESTATED**

**ECONOMIC DEVELOPMENT SERVICES AGREEMENT**

**BETWEEN FULTON COUNTY, GEORGIA**

**AND**

**DEVELOPMENT AUTHORITY OF FULTON COUNTY**

This Amended and Restated Economic Development Services Agreement (the “Agreement”) is made and entered into this \_\_ day of \_\_\_\_\_, 2023, between Fulton County, Georgia, a political subdivision of the State of Georgia, (hereinafter “County”), and the Development Authority of Fulton County, (hereinafter “DAFC”), a public body corporate and politic and a political subdivision of the State of Georgia created pursuant to O.C.G.A. § 36-62-1 et seq (the “Development Authorities Law”). The County and DAFC may be individually referred to as a “Party” and collectively referred to as the “Parties”.

**WITNESSETH:**

**WHEREAS**, the County and DAFC entered into an agreement on December 12, 2020 (the “Prior Agreement”) to formally coordinate the provision of economic development services with the DAFC in order to promote economic development and opportunity for all within the County; and

**WHEREAS**, in 2022, Fulton County formally established Select Fulton, then a division of the County Manager’s Office, as the County’s Economic Development Department; and

**WHEREAS**, the County recognizes the need to implement a coordinated and synergistic approach to maximize economic development opportunities within the County; and

**WHEREAS**, the County further recognizes that to ensure efficiency of service delivery, the County’s economic development efforts would best be utilized by coordinating with DAFC, thereby creating one primary point of contact for economic development within the County; and

**WHEREAS**, the County and DAFC desire to amend and restate the Prior Agreement for the coordination of economic development services between DAFC and the County, acting through Select Fulton; and

**NOW THEREFORE**, in consideration of the foregoing and pursuant to the authority contained in Article IX, Section III, Paragraph I of the Georgia Constitution, the Parties agree as follows:

## ARTICLE 1. JOINT RESPONSIBILITIES

- 1.1 Strategic Planning.** The Executive Director of DAFC, or his or her designee, the County Manager, or his or her designee, and the Director of Select Fulton, or his or her designee, shall collaborate and develop strategic goals for economic development within the County, which will be designed to fulfill the policy vision of DAFC and the County as established by their respective governing authorities. Said goals will be reduced to writing and distributed to each Party.
- 1.2 Execution of Strategic Plan.** The Executive Director of DAFC will coordinate with the Director of Select Fulton throughout each year the Agreement is in place to ensure successful implementation of the strategic goals agreed upon by both Parties.

## ARTICLE 2. RESPONSIBILITIES OF THE PARTIES

**2.1 Facilities.** The County shall provide physical space in Suite 2052 of the Fulton County Government Center located at 141 Pryor Street, SW, Atlanta, Georgia 30303, as the same may be relocated in consultation with the Director of Select Fulton and the Department of Real Estate and Asset Management, with said space being reasonably adequate for (i) the County employees operating under the supervision of the Director of Select Fulton; and (ii) DAFC employees operating under the supervision of the Executive Director of the DAFC. Notwithstanding the foregoing, the provisions of this Section 2.1 shall remain subject to Sections 3 through 9 of that certain *Memorandum of Agreement between Fulton County, Georgia and Development Authority of Fulton County Regarding the Use of Certain Office Space*, dated July 12, 2016.

**2.2 Expenses.** Each Party shall be responsible for their own travel costs and related expenses in pursuit of economic development opportunities and related activities without seeking reimbursement or contribution from the other Party.

## ARTICLE 3. SCOPE OF SERVICES

**3.1 Liaison.** The Director of Select Fulton shall be the primary contact with DAFC for economic development issues and initiatives of the County. The Executive Director of DAFC, DAFC personnel and board members shall work with Select Fulton to assist the County with the facilitation of potential projects that spur economic development as they relate to Section 1.1 of this Agreement; provided, however, any approval of matters authorized under the Development Authorities Law, O.C.G.A. § 36-62-1 et seq., such as a letter of inducement, bond resolution, other resolution or Regional Economic Business Assistance (“REBA”) Grant is subject to the approval of the DAFC board members. The Parties recognize that they each have respective roles in promoting economic development in Fulton County, but will work cooperatively in accordance with Article 1 of this Agreement without assuming each other’s respective roles.

**3.2 Services and Roles.** Select Fulton and DAFC serve roles in economic

development throughout Fulton County based on their respective expertise or as promulgated by laws. Specifically, Select Fulton leads in providing Business and Workforce Development services for Fulton County. DAFC, through its powers under the Development Authorities Law, provides services to develop and promote trade, commerce, industry, and employment opportunities for the public good and the general welfare, including, but not limited to, facilitating certain commercial and other public finance developments such as office, warehouse, manufacturing, retail and restaurant, residential, data center, hotel, medical, film, parking, and educational facilities.

The Services of Select Fulton and DAFC are further described below.

### 3.2.1 Select Fulton Services

1. Business Attraction and Recruitment
2. Business Retention and Expansion
3. Marketing and Promotion of Fulton County for Business
4. Redevelopment of County-owned Properties
5. Municipal Coordination of Economic Development
6. Small Business Financing and Support
7. Management and Administration of Special Taxing Districts
8. Community Improvement District (“CID”) Coordination of Economic Development
9. Transportation and Transit in Support of Economic Development
10. Infrastructure Development in Support of Economic Development
11. Industry Ecosystem Development and Support
12. Career Workforce Development Training
13. Youth Workforce Training
14. Regional Marketing and Economic Development Partnerships

### 3.2.2 DAFC Services

1. Federally Taxable and Tax-Exempt Bond Issuances for 501(c)(3) Organizations and Certain Qualified Projects
2. Bonds-For-Title Bond Issuances for Tax Incentive Projects
3. Facilitate State REBA Grants
4. Economic Development Services, Tools and Strategic Initiatives to Further DAFC’s Purpose and Mission (collectively, “Other DAFC Initiatives”)
5. Local, Regional and National Promotion of DAFC’s Bond Financing Program and Other DAFC Initiatives
6. GASB 77 and Economic Impact Reporting for DAFC Activities
7. Tax Equity and Fiscal Responsibility Act (“TEFRA”) Approval Process
8. Monitor and Speak on Legislation Affecting Development Authorities
9. Collaboration with Economic Development Partners and Agencies in the County, State and Region, Including Select Fulton

Notwithstanding the foregoing, the Parties hereto acknowledge that some of the Select Fulton Services and the DAFC Services may necessarily overlap and, and, in such instances may be provided through a collaborative partnership between Select Fulton and DAFC in accordance with the terms of this Agreement.

**3.3 Reporting.** DAFC, in coordination with the Director of Select Fulton or his or her designee, shall annually report to the Fulton County Board of Commissioners on DAFC's economic development activity of the prior year in writing and by oral presentation at a Board of Commissioners' regularly scheduled meeting. The oral presentation, at minimum, must address the annual GASB 77 tax abatement disclosure report and financial reporting of operations of the previous year.

#### **ARTICLE 4. TERM AND TERMINATION**

**4.1 Term.** The term of this Agreement shall be for five (5) years (the "Initial Term") and shall automatically renew for one (1) additional five (5) year term (the "Renewal Term") unless written notice is provided by one Party to the other Party at least ninety (90) days before the expiration of the Initial Term or the Agreement is terminated by either Party pursuant to Section 4.2 of this Agreement.

**4.2 Termination.** Either Party may terminate this Agreement for any reason or for no reason upon ninety (90) days prior written notice to the other Party. The termination shall become effective on the ninetieth day following the date of written notice given.

**4.3 Effect of Change in Law/Agreement to Renegotiate.** Should (i) a court of competent jurisdiction rule that any provision of this Agreement violates any state or federal law, rule, or regulation; or (ii) counsel for both Parties mutually determine that a ruling from a court of competent jurisdiction would adversely affect any provision of this Agreement, the Parties agree to renegotiate such affected provisions within ninety (90) days from such ruling or determination by counsel in order to affect compliance with any such ruling or determination. In the event the Parties cannot reach a mutually agreeable resolution memorialized as an amendment to this Agreement within ninety (90) days after an adverse court ruling, this Agreement will terminate automatically.

#### **ARTICLE 5. GENERAL PROVISIONS**

**5.1 Assignment.** This Agreement may not be assigned by either Party without the express prior written consent of the other Party.

**5.2 Governance.** This Agreement and each provision hereof shall be construed under and governed by the laws of the State of Georgia without regard to its choice of law or principles.

**5.3 Severability.** The provisions of this Agreement are severable. If any clause or provision shall be held invalid or unenforceable in whole or in part, then such invalidity or unenforceability shall attach only to such clause or provision, or a part thereof, and the remainder of Agreement shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law unless to do so would defeat the purpose of this Agreement.

**5.4 Entire Agreement .** This Agreement constitutes the entire integrated Agreement

between the Parties, and it is expressly understood and agreed that the Agreement may not be altered, amended, modified, or otherwise changed in any respect, except by writing executed by each Party or an authorized representative of each Party affected by any such modification.

**5.5 Captions.** The captions in this Agreement are for purposes of convenient reference only and form no part hereof.

**5.6 Binding, Effect, and Amendment.** This Agreement, together with any amendments or attachments hereto, shall be binding upon the Parties, and their heirs and successors, and this Agreement may be amended only by written instrument signed by both Parties hereto.

**5.7 Notice.** Any notice, request, instruction or other document to be given pursuant to this Agreement by either Party shall be in writing and delivered personally or sent by certified mail, postage prepaid, return receipt requested, to the other Party at the address set forth below or to other address as such Party may from time to time designate.

To County:

Chairman, Fulton County Board of Commissioners  
141 Pryor Street, SW Suite 10032  
Atlanta, Georgia 30303

County Manager  
Fulton County  
141 Pryor Street, SW Suite 10061  
Atlanta, Georgia 30303

County Attorney Fulton County  
141 Pryor Street, SW Suite 4038  
Atlanta, Georgia 30303

Director of Select Fulton - Fulton County  
141 Pryor Street, SW Suite 2052 (Peachtree Level)  
Atlanta, Georgia 30303

To the DAFC:

Chairman  
Development Authority of Fulton County  
141 Pryor Street, S.W. Suite 2052 (Peachtree Level)  
Atlanta, Georgia 30303

Executive Director  
Development Authority of Fulton County  
141 Pryor Street, S.W. Suite 2052 (Peachtree Level)  
Atlanta, Georgia 30303

and:

Arnall Golden Gregory LLP  
Attn: Sandra Z. Zayac, Counsel to the DAFC  
171 17th Street NW, Suite 2100  
Atlanta, Georgia 30363

Any notice shall be deemed to have been received by the Party to whom it is addressed (i) upon actual receipt at the office of such Party in the case of notices sent by hand or nationally recognized overnight delivery service; or (ii) three (3) days after it is deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, to such Party.

**5.8 Portion of Damages for Which the Parties Can Be Held Liable.** It is hereby stipulated and agreed between the Parties that with respect to any claim or action arising out of the activities described in this Agreement, each Party shall only be liable for payment of that portion of any and all liability, costs, expenses, demands, settlements, or judgments resulting from the actions or omissions of its own employees. However, nothing herein shall be construed to be a waiver of any governmental immunity or any defense otherwise available to each Party, including their officials, officers, employees or agents.

**5.9 Duplicate Originals.** This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument. Electronic, photocopy and facsimile copies of signatures may be used in place and stead of original signatures with the same force and effect as originals.

SIGNATURES CONTAINED ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first set forth above.

FULTON COUNTY, GEORGIA

By: \_\_\_\_\_

Name: Robert L. Pitts

Title: Chairman, Fulton County

Board of Commissioners

Attest: \_\_\_\_\_

Name: Tonya R. Grier

Title: Clerk to the Commission

APPROVED AS TO FORM:

By: \_\_\_\_\_

Name: Y. Soo Jo

Title: Fulton County Attorney

DEVELOPMENT AUTHORITY OF FULTON COUNTY

By: \_\_\_\_\_

Name: Michel M. Turpeau

Title: Chairman, Development Authority of Fulton County

Attest: \_\_\_\_\_

Name: Kyle Lamont

Title: Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_

Name: Sandra Z. Zayac

Title: Counsel to Development Authority of Fulton County