

**INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY OF  
ATLANTA, GEORGIA, THE FULTON COUNTY SHERIFF, AND FULTON  
COUNTY, GEORGIA, FOR THE TEMPORARY HOUSING OF DETAINEES AT  
THE ATLANTA CITY DETENTION CENTER**

**THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”)** is made and entered by and between the **City of Atlanta**, Georgia (“City”), a municipal corporation of the State of Georgia, the **Fulton County Sheriff** (“Sheriff”), a constitutional officer pursuant to the Georgia Constitution, and **Fulton County, Georgia** (“County”), a political subdivision of the State of Georgia, each of which together shall be known as the “Parties,” or each as an individual “Party”.

**WHEREAS**, the City and County are governmental agencies located within the State of Georgia authorized by law to enter into intergovernmental agreements pursuant to Article 9, Section 3, Paragraph 1 of the Georgia Constitution; and

**WHEREAS**, the City, Sheriff, and County share a common interest to form a law enforcement partnership to successfully address issues involving the care and custody of detainees; and

**WHEREAS**, the City owns the Atlanta City Detention Center (“ACDC”), a 17-story tall, 471,000 square foot adult detention center at 254 Peachtree St SW, in South-West Atlanta; and

**WHEREAS**, the City of Atlanta has made important steps towards reforming public safety and criminal justice practices to more accurately reflect our values; and

**WHEREAS**, there have been several necessary steps taken to end the use of arrest and jail as solutions to poverty, addiction, and mental health challenges; and

**WHEREAS**, various initiatives have led to a very significant decline in the average daily population in the ACDC; and

**WHEREAS**, the City of Atlanta has committed its resources to create a public and private partnership to further enhance public safety, improve quality of life, improve conditions for pre-trial detainees and expand services to include vocational training, housing, and community-based mental health services; and

**WHEREAS**, the City is willing to make portions of ACDC available for a limited number of adult detainees not to exceed 700 individuals, currently in the custody of the Fulton County Sheriff; and

**WHEREAS**, these detainees will be transferred to be temporarily housed at the ACDC to assist when the Fulton County jail exceeds its capacity; and

**WHEREAS**, in an effort to relieve this condition, the Sheriff requests that certain adult detainees be housed in ACDC on an as-needed basis, and the Sheriff will provide resources to maintain these detainees during their temporary housing at ACDC; and

**NOW, THEREFORE**, the City, Sheriff, and County, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows:

## **Article 1. Purpose**

The purpose of this Agreement is to establish a formal relationship between the City, County, and Sheriff for the temporary housing of adult Fulton County detainees at ACDC by the Sheriff and County for the detention of persons charged with or convicted of violating federal, state, or local law or held as a material witness at ACDC. This Agreement is never to be construed as allowing for the detention of any youthful offenders. This Agreement establishes the duties and responsibilities of each Party for the housing of up to 700 Fulton County detainees.

## **Article 2. Powers and Duties.**

In furtherance of the public purposes of this Agreement, the County, City, and Sheriff hereby represent and warrant to each other the following:

2.1. Authority. Each Party hereto expressly represents and warrants that (i) it has the power to make, deliver and perform this Agreement, and has taken all necessary action to authorize the execution, delivery, and performance of this Agreement; (ii) this Agreement when executed will be legally binding upon the parties and enforceable in accordance with the terms hereof; and (iii) no further consent or approval of any other Party not specifically mentioned herein is required in connection with the execution, delivery, performance, validity, and enforcement of this Agreement, unless where required by law. Without limiting the generality of the foregoing, each Party hereby expressly acknowledges and represents that it has officially adopted and otherwise approved this Agreement at a meeting of its governing authority in accordance with the Constitution and laws of the State of Georgia. To the knowledge of the County, Sheriff, and the City, there are no actions, suits or proceedings pending or threatened, in any court or before any governmental authority, domestic or foreign against, by or affecting the County, Sheriff, or City which affect or question the validity or enforceability of this Agreement, or any action taken by the County, Sheriff or the City under this Agreement.

2.2. Public Purpose. This Agreement and the services contemplated herein are for public safety, welfare, and benefit and are undertaken in accordance with the laws and Constitution of the State of Georgia. Without limiting the foregoing, the Parties specifically and expressly warrant and represent, and do hereby find, that this Agreement (i) pertains to the provision of services and activities which the parties are by law authorized to undertake and provide; (ii) is otherwise authorized under the Intergovernmental Contracts Clause of the Georgia Constitution of 1983, Art. IX, Sec. III, Par. I (a); (iii) does not authorize the creation of new debt as contemplated by Ga. Const. of 1983, Art. IX, Sec. V. Par. I (a); and (iv) does not violate O.C.G.A. § 36-30-3(a) or otherwise prevent free legislation by any party in matters of government and shall be binding and enforceable against the Parties and their successors during the term hereof in accordance with its terms.

2.3. No Conflicting Agreements. The execution, delivery, and performance of this Agreement will not violate or contravene any contract, undertaking, instrument, or other agreement to which the County, Sheriff, or the City is a party, or which purports to be binding upon said Parties. Furthermore, the execution, delivery, and performance of this Agreement does not violate the provisions of any Party's enabling legislation or Code of Ordinances or any statutory or decisional laws of the State of Georgia regarding similarly political subdivisions of said State. The representations and warranties contained in this Article shall be true and correct as

of the date hereof and such representations and warranties, and the obligation of the County and the City to perform their respective obligations under this Agreement shall be expressly conditioned upon said representations and warranties being true and correct on the date hereof. Furthermore, each Party hereto specifically acknowledges and agrees that it shall be forever estopped from making any claim, counterclaim, assertion, or other argument of any kind against the other Party contrary to the representations and warranties set forth in this Agreement.

**Article 3. Definitions.**

3.1. For the purposes of this Agreement, the term “as-needed,” means when the Fulton County Jail exceeds its maximum capacity of detainees, as determined in the sole discretion of the Sheriff.

3.2. For purposes of this Agreement, a “detained day” is twenty-four (24) hours or any part thereof.

**Article 4. Term.**

4.1. This Agreement is effective upon approval of the governing authority of each Party, with a “Commencement Date” beginning on the date of execution by the last Party.

4.2. The term of this Agreement shall be for up to four (4) years beginning from the Commencement Date. This Agreement, however, may be extended by mutual agreement of the Parties, for limited reasons such as to ensure the safety of the community.

**Article 5. Termination.**

5.1. The City may terminate this Agreement for cause, upon ninety (90) days written notice to the County and Sheriff where either the Sheriff or County fails to cure a default within thirty (30) days, after the City has provided notice of a breach to the County or Sheriff in writing. For purpose of this Agreement, “for cause” means where the County or Sheriff fails to timely or fully pay an invoice amount when due; provided, nothing herein shall prevent the County or Sheriff from not paying any sums in reasonable dispute.

5.2. The Sheriff or County may terminate this Agreement for their convenience upon ninety (90) days written notice to the City. Any such notice from the Sheriff shall set forth the specific plans for accommodation and/or transfer of the affected jail population.

**Article 6. Services.**

6.1. Housing

The category or type of detainees as defined by the Parties shall never exceed 700 detainees. None of these 700 detainees shall be youthful offenders. Youthful offenders are individuals who have not met the age of majority (18 years old).

## 6.2. Access to Facilities

During the Term of the Agreement, the Sheriff and designated staff shall have access to ACDC's facilities to provide the following services: staffing of detention officers and others; detainee security and supervision; detainee medical care; detainee mental health care; detainee phone/commissary; kitchen and detainee food services; detainee transport services; laundry; detainee virtual encounter capability; life skills; GED program; Cosmetology program; canine program; competency restoration; pre-stabilization program - substance abuse; community-based mental health treatment; computer skills; substance abuse counseling/treatment; music/dance therapy; religious and chaplain services; anger and stress management counseling; law library services; re-entry program; and related miscellaneous services. The City will coordinate with Sheriff and designated staff to schedule availability and logistics in use of any additional space required for any of the foregoing activities.

## 6.3. Per Diem

The City agrees to house Fulton County adult detainees at a per diem rate of \$50.00 per detainee per detained day. The City shall calculate the County's obligation for each calendar month during the term of this Agreement, and before the end of the next calendar month, shall send to the County and the Sheriff a monthly statement showing the County's total monthly obligation. Fulton County shall pay the City all sums owed under its monthly obligation within sixty (60) days of billing. Should the Sheriff fail to relocate Fulton County detainees at ACDC beyond the four (4)-year term of this Agreement, the City shall be entitled to \$150 per detainee per detained day until detainees are transferred.

## 6.4. Phone/Commissary

The City shall be entitled to 65 percent (65%) of the phone and commissary fees generated at ACDC from the housing of the Fulton County detainees with such fees to be used solely for jail-related services, and the Sheriff shall be entitled to the remaining 35 percent (35%), with the City timely remitting the Sheriff's portions without any deductions during the Term of this Agreement. Should the Sheriff fail to relocate Fulton County detainees at ACDC beyond the four (4) year term of this Agreement, the City shall be entitled to 100 percent (100%) of the phone and commissary fees generated from the Fulton County detainees, until such detainees are transferred.

## 6.5. Audit

The Parties shall have the right to audit all financial data pertaining to any fees or expenses relating to this Agreement, which right shall survive the term of this Agreement, upon providing reasonable written notice to the other Party.

## 6.6. Background Information

Prior to transfer, the Sheriff shall provide the City with all relevant information concerning the classification of each detainee. Only after the assessment is made by the City will the detainees be transferred and housed at ACDC. Detainees to be housed at ACDC shall be restricted to:

- (1) Individuals transferred from Union City (South Annex)

- (2) As part of an approved classification process, those detainees that present a low to medium custody level, to include, but not limited to, first or second offenders, honor dorm participants and those detainees actively engaged in programmatic opportunities (Ex: General Educational Development (GED) programming, drug and alcohol abuse programming, Culinary, Cosmetology, Thinking for a Change (re-entry program), Yoga, African Dance, Book Club, Basic Computer Application, etc.) or as approved by the City of Atlanta Chief of Corrections.

#### 6.7. Normal Maintenance Services for Detainees

The City shall provide normal maintenance services for all Fulton County detainees housed in ACDC. Generally, such normal maintenance shall include, but not be limited to, all administrative type services, detainee library, educational services, and other related miscellaneous and incidental detainee services provided by the City for detainees housed in ACDC.

#### 6.8. Coordination

A representative of the Sheriff and City shall be available daily to discuss problems or issues pertaining to the housing and administration of the Fulton County detainees. The Sheriff's representative shall be the Sheriff or his designated representative. The City shall be represented by the Chief of Corrections or his designated representative.

#### 6.9. Medical Services

The County and Sheriff shall provide medical services for Fulton County detainees housed at ACDC. The County shall be solely responsible for their detainees being housed at ACDC subject to this Agreement.

#### 6.10. Transportation

The Sheriff shall be responsible for providing transportation for all Fulton County detainees, including transportation for court appearances, all medical/dental care, mental health treatment, or interviews for the release of a detainee. The City will not make emergency exceptions to this provision as it does not have the capacity to transport detainees.

#### 6.11. Facility Services

The City warrants that spaces occupied by Fulton County detainees will be sanitary and well maintained. To this end, Fulton County shall be afforded ample space for detainee laundry and related services.

#### 6.12. Food

Fulton County shall provide its detainees with at least three meals per day. The operation of the ACDC is governed by the regulations of the American Correctional Association ("ACA") which is its accrediting authority. These regulations mandate that hot food be served to its population at least twice a day while allowing one "cold" meal. At no time will Fulton County

be responsible for the preparation of food for ACDC detainees. ACDC will not be responsible for the preparation of food for Fulton County detainees.

**Article 7. Security.**

In exchange for certain terms in this Agreement, and in furtherance of the safety of its employees and detainees, Fulton County will provide 24-hour constant supervision and security for its detainees by and through its on-site personnel.

**Article 8. Security Training.**

Both the City's Department of Correction and Fulton County Sheriff are aware that they employ different models for securing detainees. ACDC is governed by the rules of its accrediting authority ACA. ACA mandates that its facilities employ the Direct Supervision Method. Fulton County agrees to some level of staff training in this method for the purposes of monitoring all detainees.

**Article 9. Responsibility for Claims and Liability.**

It is hereby stipulated and agreed between the Parties that, with respect to any claim or action brought by a third party, including a detainee, and arising out of the activities described in this Agreement or stems from any matter arising out of any act or omission by the Parties in connection to the performance of this Agreement, that 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 negligent actions or omissions of its own agents, officers, and employees. Either Party may self-fund its obligations under this Agreement. However, nothing herein shall be construed as a waiver of any Party's sovereign immunity or the immunities available to the officials, officers, and employees of any Party.

**Article 10. Initial Detainee Transfer and Mobilization.**

The Sheriff presently maintains an annex in Union City, Georgia. It has been agreed between the Parties that the detainees currently housed in Union City, Georgia will be transferred to ACDC in first priority. These detainees shall be transferred to ACDC without regard to their classification. Detainees subject to this transfer shall not be housed in ACDC if they are diagnosed with major medical issues or chronic unmanageable diseases.

**Article 11. Subsequent Detainee Transfer.**

Following the initial transfer of the Union City population of detainees to ACDC, the Parties agree to a staggered relocation of other detainees to ACDC. Following the transfer of the Union City population, other detainees will be incrementally transferred. There shall be no more than 100 detainees transferred per month until the previously agreed upon capacity (700) is reached. These detainees shall neither be diagnosed with nor suffering from serious medical conditions.

**Article 12. Prison Rape Elimination Act (P.R.E.A.).**

The City strictly adheres to the requirements set forth in the Prison Rape Elimination Act (P.R.E.A.) in its operation of the ACDC. Its facility is subject to any audits by the P.R.E.A.,

which is the accrediting authority. Fulton County also agrees to strictly adhere to these provisions and protocols and to have its staff trained in these methods.

**Article 13. GCIC.**

Parties agree that all personnel staff and contractors serving in any capacity shall be subject to yearly Georgia Crime Information Center (“GCIC”) background checks. The Sheriff shall ensure, by way of certification from the Fulton County Sheriff’s Office, that all individuals have undergone a GCIC background check prior to initiating service at ACDC.

**Article 14. Amendments.**

This Agreement may be modified at any time during the term by mutual written consent of both parties.

**Article 15. Notices.**

All required notices shall be given by first class mail, except that any notice of termination shall be mailed via U.S. Mail, return receipt requested. Notices shall be addressed to the parties at the following addresses:

**If to the County:** Richard “Dick” Anderson, County Manager  
141 Pryor Street, SW,  
Suite 1000  
Atlanta, Georgia 30303  
404-612-8335  
404-612-0350 (facsimile)

**With a copy to:** Y. Soo Jo, County Attorney  
141 Pryor Street, SW,  
Suite 4038  
Atlanta, Georgia 30303  
404-612-0246 (telephone)  
404-730-6324 (facsimile)

**If to Sheriff:** Patrick “Pat” Labat, Sheriff  
Fulton County Sheriff’s Office  
185 Central Avenue  
Atlanta, Georgia 30303

**If to the City:** Elder Dancy, Chief  
City of Atlanta Department of Corrections  
254 Peachtree St SW  
Atlanta, Georgia 30303

**With a copy to:** Nina Hickson, City Attorney  
City of Atlanta  
Department of Law  
55 Trinity Avenue, Suite 5000

Atlanta, Georgia 30303  
404.546.4100 (telephone)  
404.546.9379 (facsimile)

**Article 16. Non-Assignability.**

No Party shall assign any of the obligations or benefits of this Agreement.

**Article 17. Entire Agreement.**

The Parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and agreement of the Parties regarding the subject matter of the Agreement.

**Article 18. Severability.**

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision, were not part of this Agreement.

**Article 19. Binding Effect.**

This Agreement shall inure to the benefit of, and be binding upon, the respective Parties' successors.

**Article 20. Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument.

**Article 21. Miscellaneous Provisions.**

21.1 Cooperation. The Parties agree to cooperate and coordinate the creation and the submittal to each other of any necessary reports, data, or records that may be needed by each to carry out its essential functions and to comply with any reporting or auditing requirements of any regulatory agency. Each party shall have the right to assert, retain and protect the confidential and/or proprietary nature of any documents created by it.

21.2 Governing Law. This Agreement and each provision hereof shall be construed under and governed by the laws of the State of Georgia.

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

21.4 Waiver. Failure of any Party to pursue any remedy pursuant to the terms of this Agreement for any default by the other Party or a Party's waiver of any default or non-compliance by the other party shall not affect or impair either Party's rights with respect to any subsequent default or non-compliance of the same or different nature. Furthermore, a Party's delay or omission in asserting any right which the party may have hereunder will not constitute



a waiver of such party's right or impair the party's right to assert such default or non-compliance by the other Party.

21.5 Drafting of Agreement. This Agreement shall be construed without regard to the Party or Parties responsible for its preparation and shall be deemed as having been prepared jointly by the Parties. Any ambiguity or uncertainty existing in this Agreement shall not be interpreted or construed against any Party hereto. The Parties hereto agree that no representations except those contained herein have been made by any Party to induce the execution of this Agreement by any other Party.

21.6 Relationship of Parties. Notwithstanding anything in this Agreement to the contrary, no Party shall have the power to bind or obligate any other Party except as expressly set forth in this Agreement.

21.7 Survival of Representations. All terms, conditions, covenants, and warranties contained in any determination of this Agreement shall remain in effect until amended by the applicable governing authority.

21.8 No Third-Party Beneficiaries. This Agreement is made between and limited to the County, Sheriff, and City, and is not intended, and shall in no event be construed to be, for the benefit of any person or entity other than the County, Sheriff, and the City, and no other person or entity shall be considered a third-party beneficiary of this Agreement or otherwise entitled to enforce the terms of this Agreement for any reason whatsoever.

21.9 Time of Performance. Time is of the essence in the performance of this Agreement.

21.10 Initial Payment. The parties acknowledge that the city will incur substantial cost related to making initial accommodations for Fulton County detainees. In an effort to ease this burden, Fulton County agrees to pay to the City of Atlanta \$50,000.00 in advance of moving detainees to ACDC. The initial payment will be made at least three (3) business days prior to moving detainees.

**Article 22. Staged Withdrawal.**

Parties agree that this Agreement should cease at the end of the referenced term. In advance of the conclusion of this term, parties agree to strategically plan for the safe and timely transfer of temporary detainees out of ACDC.

**[SIGNATURES ON NEXT PAGES]**

IN WITNESS WHEREOF, the City, Sheriff, and County have executed this Agreement through their duly authorized officers on the day and year first above written.

**CITY OF ATLANTA, GEORGIA**

By: \_\_\_\_\_  
**Andre Dickens**, Mayor

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
**Foris Webb, III**, City Clerk

Date: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
**Nina R. Hickson**, City Attorney

Date: \_\_\_\_\_

**FULTON COUNTY SHERIFF’S OFFICE**

By: \_\_\_\_\_  
**Patrick “Pat” Labat**  
Sheriff, Fulton County, Georgia

Date: \_\_\_\_\_

**FULTON COUNTY, GEORGIA**

By: \_\_\_\_\_  
**Robert L. Pitts**, Chairman  
Fulton County Board of Commissioners

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
**Tonya R. Grier**  
Clerk to the Commission

Date: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
**Y. Soo Jo**, County Attorney

Date: \_\_\_\_\_