

**PONCE DE LEON CONTRACT  
(Fulton)**

**THIS PONCE DE LEON CONTRACT** (as amended and supplemented, this “Contract”) is made and entered into \_\_\_\_\_, 2021, by and between FULTON COUNTY, GEORGIA, acting by and through its Board of Commissioners (“Fulton”), and THE FULTON-DEKALB HOSPITAL AUTHORITY, a public body corporate and politic (the “Authority”).

**WITNESSETH:**

**WHEREAS**, pursuant to the provisions of Georgia Laws 1941, pp. 241 et seq., Fulton and DeKalb County, Georgia (“DeKalb” and together with Fulton, the “Counties”) were authorized to establish a hospital authority and, pursuant thereto, the Board of Commissioners of Fulton County by resolution adopted on August 6, 1941 and the Board of Commissioners of DeKalb County by resolution adopted on August 9, 1941 duly established “The Fulton-DeKalb Hospital Authority” (the “Authority”) in accordance with the law then in effect; and

**WHEREAS**, the Hospital Authorities Law, Article 4, Chapter 7 of Title 31 of the Official Code of Georgia Annotated (the “Act”), provides for the powers, duties and functions of hospital authorities including the Authority; and

**WHEREAS**, the Authority has been and is now legally created, existing and operating in accordance with all of the terms and provisions of the Act and will continue to comply with all of the requirements thereof; and

**WHEREAS**, the Authority now owns a complete medical center in the City of Atlanta including hospital facilities known as “Grady Memorial Hospital” and outpatient clinical facilities and related parking and other facilities (collectively, the “Grady Health System”); and

**WHEREAS**, the Authority has leased the Grady Health System pursuant to a Lease and Transfer Agreement, dated April 7, 2008 (the “Lease Agreement”), to Grady Memorial Hospital Corporation (the “Corporation”) which now operates the Grady Health System; and

**WHEREAS**, pursuant to Section 31-7-85 of the Act, a county, for the purpose of using the facilities of an authority, is authorized by action of its governing body to enter into contracts with an authority for a period not exceeding 40 years as shall be necessary to provide for the continued maintenance and use of such facilities of the authority; and

**WHEREAS**, the Counties and the Authority entered into that certain contract dated June 20, 1984, as amended by amendments dated December 30, 1987, July 14, 1988, December 29, 1988, June 22, 1989 and December 14, 1989 (such contract, as amended, being referred to herein as the “Operating Contract”) pursuant to which the Authority agreed, among other things, to continue to provide medical services and hospital facilities for the indigent sick of the Counties and the Counties agreed to pay the operating costs and expenses of Grady Health System, all in accordance with the terms thereof; and

**WHEREAS**, the Authority and Fulton heretofore issued and sold \$136,990,000 in original principal amount of The Fulton-DeKalb Hospital Authority Second Series Taxable

Refunding Revenue Certificates, Series 2012 (the “Series 2012 Certificates”) on terms and conditions set forth in a Certificate Resolution adopted on November 1, 2012 (the “2012 Certificate Resolution”) in order to refinance certain outstanding certificates; and

**WHEREAS**, the Authority and Fulton entered into a Contract dated as of November 21, 2012 (the “2012 Contract”), pursuant to which the Authority agreed, among other things, to continue to provide medical services and hospital facilities needed to serve the indigent sick of Fulton County and Fulton agreed, among other things, to make payments to the Authority sufficient to enable the Authority to pay the principal of and interest on the Series 2012 Certificates; and

**WHEREAS**, the Authority and Fulton heretofore issued and sold \$66,920,000 in original principal amount of The Fulton-DeKalb Hospital Authority Revenue Certificates (Grady Surgical Center Project), Series 2020A (the “Series 2020A Certificates”) on terms and conditions set forth in a Certificate Resolution adopted on March 31, 2020 (the “2020A Certificate Resolution”) in order to finance the acquisition, construction, equipping and development of a new center for advanced surgical services to be housed in an approximately 10-story facility that includes a multi-story parking garage containing approximately 600 parking spaces and an outpatient surgery center containing approximately 225,000 square feet of space to be located at the former site of the Aldredge Building in Downtown Atlanta; and

**WHEREAS**, the Authority and Fulton entered into a Contract dated May 7, 2020 (the “2020 Contract”), pursuant to which the Authority agreed, among other things, to continue to provide medical services and hospital facilities needed to serve the indigent sick of Fulton County and Fulton agreed, among other things, to make payments to the Authority sufficient to enable the Authority to pay the principal of and interest on the Series 2020A Certificates; and

**WHEREAS**, the Operating Contract, the 2012 Contract and the 2020 Contract are authorized under the Act and payable by Fulton from either its general fund or, if applicable, specified sums derived from an annual ad valorem tax levy within the statutory seven (7) mill limit; and

**WHEREAS**, the Authority’s right to receive payments from the Counties under the Operating Contract from ad valorem taxes is subordinate to the Authority’s right to receive payments under the 2012 Contract and 2020 Contract which have a first and prior lien on the specified sums derived from the annual ad valorem tax levy within the statutory seven (7) mill limit; and

**WHEREAS**, the Authority and Fulton have determined that, in order to benefit the health and welfare of Fulton County residents, to finance a portion of the costs of the renovation of the Grady Health System’s infectious disease program facility located at the Ponce de Leon Center at 341 Ponce de Leon Avenue, Atlanta, Georgia (the “Project”) and to pay the costs associated therewith, through the Authority’s issuance of one or more series or issues of tax-exempt or taxable revenues certificates (the “Revenue Certificates”), on the terms and conditions set forth in a certificate resolution adopted by the Authority on \_\_\_\_\_, 2021 (the “Certificate Resolution”); and

**WHEREAS**, in order to secure a portion of the Revenue Certificates in a principal amount of \$8,025,000 (the “Series 2021 Certificates”), the Authority and Fulton desire to enter

into this Contract pursuant to which the Authority agrees, among other things, to facilitate the renovation of the Project and to continue to provide medical services and hospital facilities needed to serve the indigent sick of Fulton County, and Fulton agrees, among other things, to make payments to the Authority sufficient to enable the Authority to pay the principal of, premium (if any) and interest on the Series 2021 Certificates, the proceeds of \$\_\_\_\_\_ after payment of issuance costs will constitute the Fulton portion of the public contribution for the Project (the “Fulton Proceeds”); and

**WHEREAS**, in order to provide additional public funds to pay the costs of the Project, DeKalb has agreed, among other things, to make payments to the Authority totaling \$4,000,000 (the “DeKalb Proceeds”) constituting the DeKalb portion of the public contribution for the Project and which shall be secured by a contract between DeKalb and the Authority (the “DeKalb Contract”) it being understood that the authorization and execution of such DeKalb Contract is a condition to the issuance of the Series 2021 Certificates by the Authority; and

**WHEREAS**, it is estimated that the total cost of the Project will be approximately \$35,000,000 of which not more than \$12,000,000 will be paid from the Fulton Proceeds and the DeKalb Proceeds; and

**WHEREAS**, the Authority and Fulton have agreed that the Corporation, combined with private philanthropy and other sources, will finance the cost of the balance of the Project as part of a public/private partnership and the Corporation has raised and will collect funds in the amount of at least \$12,000,000, which are restricted for use in the renovation of the Project (the “Private Proceeds”), and which will include the Corporation’s commitment to provide its own funds to be used for Project costs; and

**WHEREAS**, in connection with the issuance of the Series 2021 Certificates, the Authority has approved the execution and delivery of (i) a Project Fund Custodian Agreement (the “Project Fund Custodian Agreement”) among the Authority, the Corporation and U.S. Bank National Association, as the Project Fund Custodian (the “Project Fund Custodian”), and (ii) one or more agreements (collectively, referred to herein as the “Paying Agent Agreement”) between the Authority and U.S. Bank National Association, in its capacity as the paying agent, registrar and custodian under the Certificate Resolution (in such capacities referred to herein as the “Paying Agent”); and

**WHEREAS**, the Authority and the Corporation have entered into a Development and Funding Agreement, dated as of [December \_\_, 2021] which authorizes the renovation of the Project by the Corporation on behalf of the Authority and specifies the use and distribution of the Fulton Proceeds for payment of a portion of the Project costs; and

**WHEREAS**, the execution and delivery of this Contract by the Authority was authorized by the Authority pursuant to the Certificate Resolution, and the execution and delivery of this Contract by Fulton was authorized by a resolution of its Board of Commissioners adopted on \_\_\_\_\_, 2021; and

**WHEREAS**, pursuant to the Certificate Resolution, provision is made whereby under certain terms and conditions, including the consent of Fulton as provided in this Contract, additional certificates or other obligations may be issued by the Authority ranking on a parity as to the lien on the Contract Revenues (as therein defined) with the lien securing the Series 2021 Certificates (the “Additional Certificates”); and

**WHEREAS**, the Authority and Fulton have agreed that the Series 2021 Certificates will be issued on a parity with the Series 2012 Certificates and the Series 2020A Certificates and the lien on the Contract Revenues ranking *pari passu* with those of the Series 2012 Certificates and the Series 2020A Certificates; and

**WHEREAS**, the Authority and Fulton had agreed that the Series 2021 Certificates would not be issued until the Project had received a Certificate of Need from the Georgia Department of Community Health and was subject to a guaranteed maximum price construction contract, and such Certificate of Need and guaranteed maximum price construction contract have been received by the Corporation; and

**WHEREAS**, the Authority, pursuant to the Certificate Resolution, pledged this Contract and the Contract Revenues to the payment of the Series 2021 Certificates and any Additional Certificates hereafter issued (with the consent of Fulton as provided in this Contract) pursuant to the terms of the Certificate Resolution (collectively, the “Certificates”); and

**WHEREAS**, all capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Certificate Resolution; and

**WHEREAS**, this Contract is authorized by the provisions of Article IX, Section III, Paragraph I(a) and(c) of the Constitution of the State of Georgia and by the Act;

**NOW, THEREFORE**, in consideration of the premises and undertakings as hereinafter set forth, it is agreed by and between Fulton and the Authority, each acting by and through its duly authorized officers, pursuant to resolutions duly adopted and properly passed:

1. *Effective Date.* This Contract shall take effect as of the date of the issuance and delivery of the Series 2021 Certificates and shall continue until midnight on [August 1, 2034] or until such time as the Certificates as to principal, interest and redemption premium, if any, have been paid or provision duly made therefor in accordance with the Certificate Resolution, but in no event shall the term of this Contract exceed forty (40) years.

2. *Effect on Other Contracts.* Except to the extent set forth in Section 4 hereof, nothing contained herein shall affect or impair the obligations of each of the parties hereto set forth in the Operating Contract, the 2012 Contract, the 2020 Contract, all of the terms and conditions of which shall remain in full force and effect and are hereby ratified and reaffirmed. The obligations of Fulton under the Series 2012 Contract, the 2020 Contract and this Contract shall be on a parity.

3. *Authority Obligations.* The Authority covenants and agrees, as follows:

(a) Simultaneously with the issuance and delivery of the Series 2021 Certificates, the proceeds derived from the sale of the Series 2021 Certificates shall be delivered or caused to be delivered by the Authority as follows:

(i) \$\_\_\_\_\_ to U.S. Bank, National Association, serving as Project Fund Custodian under the Project Fund Custodian Agreement, for deposit into the

Project Fund created under the Project Fund Custodian Agreement for the renovation of the Project; and

(ii) \$\_\_\_\_\_ to U.S. Bank, National Association, serving as Paying Agent under the Paying Agent/Registrar Agreement (the “Paying Agent”) for deposit into the Costs of Issuance Fund created under the Certificate Resolution for the payment of the costs incurred in connection with the issuance of the Series 2021 Certificates.

(b) As a condition to the issuance and delivery of the Series 2021 Certificates, the Authority has entered into the Development Agreement with the Corporation with regard to the Corporation’s renovation of the Project on behalf of the Authority and the disbursement of the Fulton Proceeds for such purpose. The Development Agreement is in a form and substance satisfactory to the Chairman and the Fulton County Attorney, and the execution and delivery of same is hereby reaffirmed, acknowledged and approved in all respects by the Chairman (after consultation with the Fulton County Attorney).

The Authority will provide updates to Fulton, as requested, regarding the construction budget, timeline of construction, MBE utilization, utilization of the Fulton Proceeds and contractor/subcontractor information as provided by the Corporation in the development of the Project.

(c) Prior to and as a condition of the issuance and delivery of the Series 2021 Certificates, the Corporation will have committed to obtain a total of \$12,000,000 in the form of cash, commitments or pledges from third parties as well as its own funds (which have been restricted for use in the renovation of the Project), of which \$8,000,000 has already been applied to pay for certain renovations at the Project site. In addition, the Corporation has committed to complete the Project with its own funds and will be responsible for any Project cost overruns.

(d) At all times during the term of this Contract and in accordance with the rules and regulations of the Authority or any subsequent agreement by Fulton, the Authority will maintain and have available or cause to have maintained and available facilities to care for the indigent sick of Fulton, as may be properly certified as entitled to receive treatment pursuant to the rules and regulations of the Authority.

(e) At all times during the term of this Contract and in accordance with the rules and regulations of the Authority or any subsequent agreement by Fulton, the Authority will maintain and have available or cause to have maintained and available facilities to care for all emergency cases affecting the residents of Fulton and those cases affecting transients if the accident took place, or the emergency arose, within the corporate limits of Fulton.

(f) At all times during the term of this Contract and in accordance with the rules and regulations of the Authority or any subsequent agreement by Fulton, when requested to do so by Fulton, the Authority will furnish or cause to be furnished treatment, medicine, care and the facilities of the Authority for the treatment and care of employees of Fulton who are injured in the line of duty and in the service of Fulton and

in all other cases when requested so to do by Fulton where Fulton shall assume responsibility for the cost of hospitalization and treatment of any injured person. Nothing herein shall prevent the Authority or the Corporation from receiving and collecting from insurance or other sources funds covering the cost of medical care or hospitalization of such person and the Authority and the Corporation shall likewise have full rights against any sums paid by tortfeasors or others under liability for the medical care and/or hospitalization of such persons.

(g) All funds received by the Authority under the provisions of Section 4 hereof, if any, shall not be commingled with any other funds of the Authority or of any other person or entity, and any such moneys so received shall be forthwith deposited with the Paying Agent and used and applied in the order of priority set forth in Section 6.2 of the Certificate Resolution to the payment of the principal of and the interest on the Series 2021 Certificates as same become due and payable on each Interest and Principal Payment Date.

(h) The Authority shall not issue any certificates, including Additional Certificates (other than the Series 2021 Certificates the issuance of which, by execution and delivery of this Contract and the Certificate Resolution, have been approved) or incur any other obligation payable from or having a lien on the revenues of the Authority derived under this Contract, unless prior thereto the Authority and Fulton shall have entered into an amendment or supplement to this Contract, or a new contract, under the terms of which Fulton is obligated to pay to the Authority amounts sufficient to enable the Authority to pay debt service on all Certificates Outstanding, including the revenue certificates proposed to be issued, and to pay such other obligations proposed to be incurred.

(i) The Authority shall not cause an unconditional notice of optional redemption of the Series 2021 Certificates to be sent to the owners thereof unless the Authority has on hand or has made provision, from refunding certificates or otherwise, for amounts sufficient to redeem the Series 2021 Certificates to be optionally redeemed to be on deposit with the Paying Agent on or prior to the redemption date.

(j) The Authority shall continue to comply with the provisions of the Operating Contract as the same may from time to time be amended, including, without limitation, the non-discrimination, audit and budget requirements described therein.

(k) The Authority will not create, or suffer to be created, any lien, security interest, encumbrance or charge upon operating revenues of the Authority without the prior written consent of Fulton, except for the following:

(i) Liens to secure indebtedness having an original maturity of less than or equal to one year and not renewable at the option of the Authority for a term greater than one year beyond the date of original incurrence; provided, however, that there shall be a period of at least five consecutive days in each fiscal year during which no such indebtedness is outstanding; and

(ii) Liens to secure indebtedness for capital expenditures in an amount not to exceed \$25 million in the aggregate outstanding at any time, and the incurrence of such indebtedness, in and of itself, shall not result in an increase in payments due by the Counties hereunder or under the Operating Contract.

(l) The Authority shall provide to Fulton the Authority's audited and issued financial statement no later than May 15 of each calendar year.

Nothing contained in this paragraph shall limit the ability of the Authority or the Corporation to acquire additional equipment or other capital assets, including real property, pursuant to an installment purchase, capitalized lease or similar obligation and nothing contained herein shall limit the right of the Authority or the Corporation to grant a security interest in or create a lien on such property so acquired provided the Authority does not pledge or create a lien on general revenues of the Authority unless otherwise authorized. The incurrence of such obligation, in and of itself, shall not result in an increase in payments due by Fulton hereunder or under the Operating Contract.

#### 4. *Fulton's Obligations*

(a) When the Series 2021 Certificates are issued and outstanding:

(i) Fulton hereby covenants and agrees to pay to the Paying Agent for the benefit of the Authority for deposit in the applicable debt service account for the Series 2021 Certificates on or before the twentieth (20th) day of each month, commencing on the month immediately preceding the month in which the first principal or interest payment on the Series 2021 Certificates is due and payable, the amount which will be sufficient to pay as follows: (i) an amount equal to the interest which has accrued and will accrue since the last Interest Payment Date for the Series 2021 Certificates to which interest has been paid, or from the initial date of such Series 2021 Certificates, if no interest has been paid, to and including the last day of such month, plus (ii) an amount such that, if the same amount were paid to the Paying Agent on the first Business Day of each succeeding month for the period from such month to and including the next Principal Payment Date, the aggregate amount so transferred to such debt service account would equal the Principal Installment coming due on the next Principal Payment Date for the Series 2021 Certificates, less (iii) so long as Fulton is not past due in any payment required to be made hereunder, any amounts actually on deposit in the applicable debt service account for the Series 2021 Certificates (other than payments made by Fulton under subparagraphs (i) and (ii) of this Section 4(a)) at the time any payment is to be made hereunder but excluding moneys held in any debt service account for payment of Series 2021 Certificates which have matured but which have not been presented for payment.

(ii) Fulton shall pay to the Authority or to the Project Fund Custodian, any other amounts due and payable under the Series 2021 Certificates including but not limited to any redemption premium, required rebate payment or any other amounts due to the Purchaser under the Certificate Resolution.

(b) The obligation of Fulton to make the payments required by the Operating Contract or any future contract between the parties hereto for the purpose of providing funds to

pay the operating costs and operating expenses of the Grady Health System (collectively, the “Subordinate Obligations”) are hereby expressly made junior and subordinate to the obligations of Fulton under this Contract, the 2020 Contract and the 2012 Contract. The obligation of Fulton to make payments required by the 2012 Contract, the 2020 Contract and this Contract will be on parity with each other. The Subordinate Obligations shall not include those under any contract entered into by Fulton pursuant to Section 4(g) hereof for the purpose of paying or securing debt service on any additional certificates or obligations issued by the Authority.

(c) The amounts payable under this Section 4 shall be used by the Authority only to provide for the payment of the principal of and the interest on the Series 2021 Certificates as same become due and payable, on each Interest Payment Date and Principal Payment Date (as such terms are defined in the 2021 Certificate Resolution), as applicable. The payments described in subparagraph (a) shall be made directly to the Paying Agent for the account of the Authority so as to assure the availability of moneys at all times to pay in full the Series 2021 Certificates as same become due and payable, on each Interest Payment Date and Principal Payment Date and shall be kept separate from and not commingled with any payments made by Fulton in connection with any other outstanding obligations. The obligation of Fulton to make the payments required under this Section 4 is for the benefit of the owners of the Series 2021 Certificates and shall be absolute and unconditional, and continue unabated until such time as the principal of, premium, if any, and interest on the Series 2021 Certificates shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Certificate Resolution; and this Contract shall not be terminated and such payments shall not be suspended, discontinued, abated or reduced for any reason whatsoever, including, without limitation (i) the damage to or destruction of the Grady Health System or any part thereof including the Project, (ii) failure of proper operation and maintenance of the Grady Health System or any part thereof including the Project, (iii) force majeure, (iv) the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, (v) the taking by eminent domain of title to or temporary use of the Grady Health System or any part thereof including the Project, (vi) commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of Georgia or any political subdivision of either thereof, or (vii) any failure of any party (including Fulton) to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Contract, the Operating Contract, the Development Agreement, the 2012 Contract, the 2020 Contract, the Certificate Resolution, the Project Fund Custodian Agreement, the Paying Agent Agreement or otherwise, or any defense or any right of setoff, counterclaim or recoupment arising out of any such failure. Nothing contained in this subparagraph shall be construed to release the Authority from the performance of any of the agreements on its part herein contained; and in the event the Authority should fail to perform any such agreement on its part, Fulton may institute such action against the Authority as Fulton may deem necessary to compel performance so long as such action does not abrogate the obligations of Fulton contained in this subparagraph, including, without limitation, making such adjustments in payments under the Subordinate Obligations.

(d) As it does in its normal course of operation, Fulton shall levy an ad valorem tax on all taxable property located within the boundaries of Fulton subject to taxation for such purposes, as now existent and as same may hereafter be extended, at such rate or rates and, if applicable, within the maximum millage limitation now authorized by law or such greater



limitation as may hereafter be authorized by law, as may be necessary to produce in each calendar year revenues which shall be sufficient to fulfill Fulton's obligations hereunder and under the 2020 Contract and the 2012 Contract, from which revenues there shall be appropriated, prior to any other appropriations for the Authority for the payment of any Subordinate Obligations. Nothing herein contained, however, shall be construed as limiting the right of Fulton to pay the obligations hereunder assumed out of its general funds or from other sources lawfully available to it for such purpose.

(e) In order for the Authority to meet its debt service requirements on the Series 2021 Certificates, to assure the payments therefor as may be required to comply with subparagraph 4(a), there shall be and there is hereby created a lien on any and all revenues realized by Fulton under and pursuant to the provisions of subparagraph (d) above, which lien is prior and superior to any lien with respect to any taxes levied from which amounts are to be paid with respect to any Subordinate Obligations, but which lien shall be on a parity basis with respect to the payments required under the 2012 Contract and 2020 Contract securing debt service on any outstanding Series 2012 Certificates and Series 2020A Certificates which are on a parity with the Series 2021 Certificates. Nothing contained in this subparagraph (e) of Section 4 is intended, or shall be construed so as, to affect the direct or indirect general obligation type indebtedness of Fulton. Nothing contained in this subparagraph (e) of Section 4 is intended, or shall be construed so as to, create any lien on, or priority hereunder or otherwise with respect to, any taxes levied for purposes other than for the benefit of the Authority.

(f) Fulton shall not make any payment to the Authority with respect to any Subordinate Obligations or otherwise if the sum of (i) the aggregate payments made and to be made by Fulton under subparagraph 4(a) hereof and under the 2020 Contract and the 2012 Contract in the then current sinking fund year, (ii) amounts previously paid, if any, in the then current sinking fund year by Fulton to the Authority under the Operating Contract or any other Subordinate Obligations, and (iii) the payment then proposed to be made under any Subordinate Obligation or otherwise (other than the payments required to be made under subsection (i) above), would exceed an amount equal to the money which would be generated and collected by a levy on all taxable property located within the boundaries of Fulton subject to taxation for such purposes as now existent and as the same may hereafter be extended of an ad valorem tax equal to 7 mills or such greater limitation as may hereafter be authorized by law (assuming that all property in Fulton is valued for such purposes at a value equal to the assessed value of such property for the most recently ended fiscal year of Fulton, as shown on the most recent tax rolls for Fulton which have been submitted to the State Revenue Commissioner), unless, prior to making the proposed payment, Fulton shall have prepaid to the Paying Agent all amounts to be payable under subparagraph (a) of this Section 4 in the then current sinking fund year.

(g) Fulton shall not be obligated under the provisions of this Section 4 to pay from the tax revenues described in Section 4(d) hereof (the "Permitted Tax Revenues") debt service on any Additional Certificates (as defined in the Certificate Resolution) unless (i) the Authority and Fulton shall have entered into an amendment or supplement to this Contract, or a new contract, and such amendment or supplement to this Contract or such new Contract is permitted under the terms of the Certificate Resolution and (ii) the Permitted Tax Revenues, based on the latest taxable digest of property located in Fulton subject to taxation for purposes of the Act, shall be sufficient to enable the Authority to pay (A) the highest Debt Service

Requirements for any succeeding Bond Year on the Outstanding Certificates (as those terms are defined in the 2021 Certificate Resolution) and on the Additional Certificates proposed to be issued, plus (B) the annual amounts then due and payable by Fulton under the Subordinate Obligations.

(h) If not available on Fulton's website, Fulton agrees that it will deliver, or cause to be delivered, with the Purchaser, a copy of Fulton's audited financial statements on or before each August 31<sup>st</sup> following the close of Fulton's fiscal year (the "Annual Filing Date"), commencing with the fiscal year ended December 31, 2021; provided, however, if August 31<sup>st</sup> falls on a day that is not a "Business Day" the Annual Filing Date will be the first business day after August 31<sup>st</sup>. "Business Day" means a day other than: (a) a Saturday or Sunday; or (b) a day on which banks are required or authorized to be closed; or (c) a day on which Fulton is required or authorized to be closed; or (d) a day on which the New York Stock Exchange is closed. In the event that audited financial statements are not available by August 31<sup>st</sup>, Fulton will deliver, or caused to be delivered, with the Purchaser, unaudited financial statements and, when audited financial statements are available, audited financial statements in a timely manner. Fulton agrees to furnish such additional financial information relating to Fulton as may be reasonably requested in writing by the Authority to the extent that all such information has been filed on the Electronic Municipal Market Access website operated by the Municipal Securities Rulemaking Board and continues to be prepared by Fulton.

(i) The Authority acknowledges that, upon initial delivery of the Series 2021 Certificates, Rule 15c2-12 of the Securities Exchange Act promulgated by the Securities and Exchange Commission ("Rule 15c2-12") is not applicable to the Series 2021 Certificates and therefore Fulton will not execute or deliver a Disclosure Agreement (as defined herein) with respect to the Series 2021 Certificates. If the Purchaser, or a subsequent purchaser of the Series 2021 Certificates, determines that Rule 15c2-12 is applicable to the Series 2021 Certificates and the County Attorney of Fulton and the Chief Financial Officer of Fulton agree with such determination, Fulton agrees to execute and deliver a written undertaking (the "Disclosure Agreement") to provide the information relating to Fulton and the Series 2021 Certificates required by the applicable provisions of Rule 15c2-12. Notwithstanding any other provision of this Contract to the contrary, no default under the Disclosure Agreement shall constitute a default or event of default under this Contract and under no circumstances shall such default affect the validity or the security for the payment of the Series 2021 Certificates.

(j) Fulton hereby covenants that prior to issuance of the Series 2021 Certificates it will provide written certification to the Authority and the Purchaser of the 2012 Certificates and the 2020A Certificates that based upon the latest taxable digest of property located in Fulton subject to taxation for purposes of the Act, seven (7) mills (or such higher millage as may then be authorized to be levied for purposes of the Act) of property taxes levied on Fulton's digest equals at least 1.1 times the highest Debt Service Requirement for any succeeding Bond Year on the Outstanding Certificates (as those terms are defined in the 2012 Certificate Resolution and the 2020A Certificate Resolution) and on the Series 2021 Certificates proposed to be issued.

(k) Fulton hereby covenants and agrees it will pay any Redemption Premium (as defined in the Certificate Resolution) upon any redemption (other than a mandatory redemption pursuant to regularly scheduled Sinking Fund Payments as defined in the Certificate

Resolution) prior to maturity of the Series 2021 Certificates. Fulton hereby covenants and agrees that it will pay the reasonable fees and expenses of the Fiduciaries (as defined in the Certificate Resolution).

5. *Mutual Obligations.* The parties hereto mutually agree as follows:

(a) Subject to the provisions of subparagraph 3(g) and subparagraph 4(g), as a part of the undertaking contemplated herein, the Authority is under an obligation to meet the principal and interest requirements of the Series 2021 Certificates as same become due and payable on each Interest Payment Date and Principal Payment Date (as such terms are defined in the Certificate Resolution) from the amounts paid by Fulton under this Contract, and the revenues to be derived under this Contract shall be irrevocably pledged to the payment of the principal of and interest on the Series 2021 Certificates to the extent and in the manner to be provided in the Certificate Resolution, to all of which each party does hereby consent; provided, however, should at some later date or dates it be determined advisable to issue additional revenue certificates or obligations by the Authority ranking as to lien on the revenues of the Authority derived hereunder *pari passu* with the Series 2021 Certificates and any outstanding Series 2012 Certificates and Series 2020A Certificates and a new contract or supplemental agreement to this Contract be entered into by and between the parties hereto to that effect, then the lien herein created on said revenues as security for the payment of the Series 2021 Certificates may be extended and broadened to include the payment of any such certificates or obligations and the principal of and interest thereon.

(b) The term “indigent sick” shall mean such persons living within the boundaries of Fulton that may be certified by the Authority as being entitled to receive the services of the Authority. The medical attention herein referred to is construed to mean the usual care rendered to patients in hospitals, such as food, general nursing care and supervision (but not special nursing care), use of operating room and facilities, laboratories and x-ray facilities, x-ray treatment and use of the usual and customary out-patient clinical services and facilities.

(c) The term “sinking fund year” shall mean the period commencing on the 2nd day of August in each year and extending through the 1st day of August in the next year.

(d) While this Contract is between the parties hereto, it is acknowledged that the owners of the Series 2021 Certificates have an interest herein and shall be third party beneficiaries of this Contract entitled to enforce the provisions hereof as if they were a party hereto to the fullest extent legally permissible. The parties hereto covenant that this Contract cannot be modified or amended, except as provided in the Certificate Resolution.

(e) No covenants, stipulations, obligations or agreements of any member, trustee, director, officer, agent, attorney or employee of the Authority or Fulton shall be deemed to be covenants, stipulations, obligations or agreements of any such member, trustee, director, officer, agent, attorney or employee, past or present, in his individual capacity. No recourse shall be had for the payment of the Series 2021 Certificates or any claim thereon against any member, director, officer, agent, attorney or employee of the Authority or Fulton, past, present or future.

(f) Operation of the Project. The parties acknowledge that Fulton is not obligated to contribute funds for the operation of the Project once construction is completed.

(g) Counterparts. This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(h) Law Governing Contract. The effect and meaning of this Contract and the rights of all parties hereunder shall be governed by, and construed according to, the laws of the State of Georgia, without giving effect to any conflict of laws principles thereof.

(i) Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper if the same shall be duly mailed by registered or certified mail, by nationally recognized overnight courier service or by delivery to physical address, return receipt requested postage or charges prepaid, addressed as follows or by facsimile with receipt confirmed:

If to the Authority:                      The Fulton-DeKalb Hospital Authority  
145 Edgewood Avenue – Second Floor  
Atlanta, Georgia 30303  
Attention: Jevon Gibson, Chief Executive  
Officer  
(404) 489-1227

with copy to:                              Arnall Golden Gregory LLP  
171 17<sup>th</sup> Street, Suite 2100  
Atlanta, Georgia 30363  
Attention: Sandra Z. Zayac, Esq.  
Telephone: (404) 873-8124  
Fax: (404) 873-8125

If to Fulton:                                Department of Finance  
141 Pryor Street, SW, Suite 7000  
Atlanta, Georgia 30303  
Attention: Sharon Whitmore, Chief Financial  
Officer  
(404) 612-7385

with copy to:                                Office of the County Attorney  
141 Pryor Street, SW, Suite 4038  
Atlanta, Georgia 30303  
Attention: Kaye Woodard Burwell, Esq. Interim  
County Attorney  
(404) 612-0235

(j) Any amendment or supplements to this Contract shall be in writing and executed by all parties.

(k) Should any phrase, clause, sentence, section or paragraph of this Contract be held invalid or unconstitutional, it shall in nowise affect the remaining provisions, which provisions shall remain in full force and effect.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS WHEREOF**, the parties hereto, acting through their duly authorized officers, have caused this Contract to be executed in duplicate as of the date and year first above written.

**FULTON COUNTY**

By: \_\_\_\_\_  
ROBERT L. PITTS  
Chairman Board of Commissioners  
of Fulton County

Attest:

\_\_\_\_\_  
Tonya R. Grier, Clerk to the Commission

[SEAL]

**APPROVED AS TO FORM:**

\_\_\_\_\_  
KAYE WOODARD BURWELL  
Interim County Attorney  
Fulton County, Georgia

(Signatures continued on next page)

**THE FULTON-DEKALB HOSPITAL  
AUTHORITY**

By: \_\_\_\_\_  
KATHRYN FLOWERS - GLASCO  
Chair

Attest:

\_\_\_\_\_  
ERIC V. THOMAS  
Secretary

[SEAL]