

**A Resolution by
Public Safety and Legal Administration Committee**

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH FULTON COUNTY TO ESTABLISH THE STANDARD OPERATING PROCEDURES BETWEEN THE CITY OF ATLANTA AND FULTON TO GUIDE THE PROCESS OF TRANSFERRING APPROPRIATE TRAFFIC OFFENSE CASES FROM THE MUNICIPAL COURT TO FULTON COUNTY; AND FOR OTHER PURPOSES.

WHEREAS, the Georgia General Assembly during its 2004 Legislative Session adopted Ga. L. 2004, p. 885 ("SB 497"), which abolished the City Court (Traffic Court) as of January 1, 2005 by repeal of Ga. L. 1996, 627 (the "Act") and expanded the jurisdiction of the Municipal Court to handle traffic offenses; and

WHEREAS, SB 497 became effective on January 1, 2005; but, by its terms, is applicable only with an executed intergovernmental agreement (the "Agreement") between all affected jurisdictions;

WHEREAS, all traffic cases, with the exception of jury trials, are currently adjudicated by the Municipal Court; and

WHEREAS, all traffic cases where a jury trial has been demanded must be adjudicated by the City Court; and

WHEREAS, cases pending in the City Court as of the effective date of its repeal can be transferred to the Municipal Court; and

WHEREAS, defendants standing trial for traffic offenses are by state law entitled to demand for jury trials, and the Municipal Court is not empowered to conduct jury trials and may wish to transfer such cases to the appropriate court in Fulton; and

WHEREAS, it is necessary for the City and Fulton to enter into an Agreement to guide the process of transferring cases from the Municipal Court to Fulton,

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA:

SECTION 1: That the Mayor be and is hereby authorized to execute an Intergovernmental Agreement to establish the standard operating procedures to guide the transfer of appropriate traffic cases to Fulton County.

SECTION 2: That the Chief Financial Officer is hereby authorized to remit payment in the amount of \$500,000, in connection with the foregoing matters, to be paid from Fund Account and Center Number 1A01 561001 T31001 (General Fund, Non-departmental, Payments to Other Governments).

SECTION 3: That the City Attorney is hereby directed to prepare appropriate Intergovernmental Agreement for execution.

A true copy,

Rhonda Dauphin Johnson
Municipal Clerk, CMC

**ADOPTED by the Council
APPROVED by the Mayor**

May 16, 2005
May 19, 2005



INTERGOVERNMENTAL AGREEMENT ("AGREEMENT")

THIS AGREEMENT is made this 7th day of May, 2005 by and between the CITY OF ATLANTA, a political subdivision of the State of Georgia ("City") and FULTON COUNTY, a political subdivision of the State of Georgia ("Fulton") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Georgia General Assembly during its 2004 Legislative Session adopted Ga. L. 2004, p. 885 ("SB 497"), which abolished the City Court (Traffic Court) as of January 1, 2005 by repeal of Ga. L. 1996, 627 (the "Act") and expanded the jurisdiction of the Municipal Court to handle traffic offenses; and

WHEREAS, SB 497 became effective on January 1, 2005; but, by its terms, is applicable only with an executed intergovernmental agreement (the "Agreement") between all affected jurisdictions;

WHEREAS, all traffic cases, with the exception of jury trials, are currently adjudicated by the Municipal Court; and

WHEREAS, all traffic cases where a jury trial has been demanded must be adjudicated by the City Court; and

WHEREAS, defendants standing trial for traffic offenses are by state law entitled to demand a jury trial, and the Municipal Court is not empowered to conduct jury trials and would have to transfer such cases to the appropriate court in Fulton; and

WHEREAS, it is necessary for the City and Fulton to enter into an Agreement in order to make applicable SB 497, and such an Agreement shall serve to guide the process of transferring cases from the Municipal Court to Fulton,

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations herein set forth, the Parties mutually agree as follows:

- 1. TRANSFER OF CASES; STANDARD OPERATING PROCEDURES.** The City agrees to implement the standards of procedure for transfer of cases from the Municipal Court to Fulton.
- 2. BINDING OF CASES.** The City agrees to bind over cases in accordance with the terms and conditions set forth in the Standard Operating Procedures, attached hereto as Exhibit "A."
- 3. TECHNOLOGY SHARING.** The City agrees to coordinate with Fulton to assess the technology development required to effectuate this Agreement. To the extent technology must be shared, the parties will negotiate in good faith to determine the allocation of cost and installation. Should no new technologies be required, the parties agree to align current technologies as much as feasible to achieve the proper transition of cases.



4. **PROCESSING OF MISDEMEANOR CASES.** The City agrees to accept and to process those misdemeanor cases where the defendant is arrested by the Atlanta Police Department in that part of the corporate limits of the City of Atlanta that exists within the corporate limits of Fulton County in accordance with the terms and conditions set forth in the Standard Operating Procedures, attached hereto.
5. **TREATMENT OF NON-JURY TRIALS.** The City agrees to treat non-jury trials in accordance with the terms and conditions set forth in the Standard Operating Procedures, attached hereto.
6. **COMPENSATION.** As described in this Paragraph 6, the City agrees to compensate Fulton for the actual net cost incurred by Fulton for the increased expense for those jury demand cases bound over to Fulton as a matter of law and pursuant to this Agreement. On July 1, 2005, the City shall submit an advance payment to Fulton in the amount of \$500,000 to facilitate implementation of this Agreement. No later than September 1, 2006, an independent auditor shall determine the actual cost incurred by Fulton for bound-over cases for the period of time from July 1, 2005 through June 30, 2006. If such cost, after subtraction of fees and fines received by Fulton from such bound-over jury demand cases, is greater than \$500,000, then the City shall reimburse Fulton for that additional actual cost incurred by Fulton. If such cost, less fines and fees received by Fulton, is less than \$500,000, then Fulton shall re-pay to the City that portion of the \$500,000 paid by the City, less the actual net expenses incurred by Fulton; provided however, that in no event will Fulton be obligated to re-pay more than the original \$500,000 paid by the City.

For each of the two (2) subsequent years (July 1, 2006 through June 30, 2007 and July 1, 2007 through June 30, 2008), the City shall pay to Fulton an amount equal to the total costs incurred by Fulton for the increased expense for those jury demand cases bound over to Fulton pursuant to this Agreement and as a matter of law, minus the total amount of fees and fines received by Fulton from such bound-over cases. If such fees and fines received by Fulton from such bound-over cases in the second and/or third year exceed the total costs incurred by Fulton from such cases in that year, no payment shall be due by either party to the other for that particular year.

The actual cost incurred and fees received by Fulton shall be determined by an annual independent audit as described in Paragraph 8 of this Agreement. All payments required by this Paragraph, except for the July 1, 2005 payment of \$500,000 by the City to Fulton, shall be delivered on or before October 1st following the contract year in question.

7. **PROCESSING RESIDUAL CASELOAD.** The City agrees to provide to Fulton temporary staff sufficient in number to support the transition of jury demand cases processed by the City but not yet adjudicated at the time this Agreement shall be come effective, referred to herein as the "residual caseload." As of the date of transfer, the City shall provide loaned staff to Fulton, as prescribed herein: on a ratio of staff to 250 cases (1:250), the Parties shall agree that the City shall provide one (1) court clerk and one (1) technical assistant, and such other staff as shall be mutually agreed upon. As of the completion of processing of the residual caseload, the City shall, at its option but in

consultation with Fulton, reduce or terminate the loan of staff, and the City shall have no further obligation to provide staff to Fulton.

- 8. EVALUATION AND AUDIT.** The City and Fulton agree to an annual evaluation and audit of the implementation of this Agreement. Each such evaluation and audit shall serve to assess the actual cost to Fulton in taking jury demand cases bound over from the City to Fulton as a matter of law and pursuant to this Agreement, as well as to resolve any post-transition issues that may have developed as a result of the transition contemplated under this Agreement. Said evaluations and audits shall be conducted by an independent auditor, as selected by both parties. The designated independent auditor shall submit each evaluation and audit to both Fulton and the City on or before September 1 of each year, beginning with September 1, 2006 and ending with September 1, 2008. Both parties agree to each provide fifty percent (50%) of the expenses associated with each evaluation.
- 9. TERM.** This Agreement shall remain in effect until October 1, 2008, unless earlier terminated upon the consent of both parties; provided, however, that the reimbursement obligations described in Paragraph 6 shall survive the termination of this Agreement. The parties agree that a copy of this Agreement will be incorporated into the Service Delivery Strategy Agreement that is currently under negotiation as of the date of this Agreement.
- 10. EFFECTIVE DATE.** The effective date of this Agreement is July 1, 2005, and no cases shall be transferred/bound-over under this Agreement until July 1, 2005.

IN WITNESS WHEREOF, the Parties have set their hands and seals by their duly authorized officials effective the day and year above written in Paragraph 10.

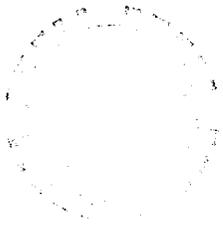
CITY OF ATLANTA, a political
subdivision of the State of Georgia

ATTEST: Rhonda Daughlin Johnson
Municipal Clerk (Seal)

BY: Shirley Franklin
SHIRLEY FRANKLIN, MAYOR

APPROVED AS TO FORM:
Linda K. DiSantis
City Attorney

(Signatures continued on following page)



FULTON COUNTY, a political
subdivision of the State of Georgia

ATTEST: Mark K. Massey
Mark K. Massey
Clerk to the Commission

BY: Karen C. Handel
KAREN C. HANDEL, CHAIR
FULTON COUNTY BOARD OF
COMMISSIONERS

APPROVED AS TO FORM:
Overtis Hicks Brantley
Overtis Hicks Brantley
County Attorney

05-0571 5.14.2005
REGULAR MEETING

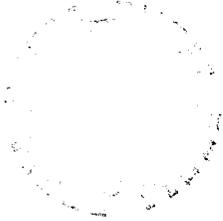


EXHIBIT "A"

Municipal Court of Atlanta

Standard Operating Procedures

I. New Cases

A. Atlanta Police Department Citations/Arrests

1. Traffic Charges Only

- a) Effective January 1, 2005, the Atlanta Police Department will be directed to make any and all citations for new traffic related offenses returnable to the Municipal Court of Atlanta, that is Defendants will be required to appear in the Municipal Court of Atlanta for hearing on the offenses.
- b) All arrest cases will be booked to the Atlanta City Detention Center and processed through the Office of the Clerk of Court of the Municipal Court.
- c) All copy of charge cases will be set for hearing by the arresting officer for a date and time certain, which shall be no more than 30 days after the date of the stop.
- d) If the defendant is arrested, he will be brought before a Municipal Court Judge within 48 hours and advised of his/her rights.
- e) The defendant will be offered the option to waive his right to a jury trial at his first appearance before a Municipal Court Judge.
- f) If the defendant does not waive his right to a jury trial, the case will be bound over immediately to an appropriate Fulton County court.
- g) At the First Appearance Hearing or at any stage of the process prior to trial and after being advised of all of his/her rights, if the defendant wants to waive his right to a jury trial, said waiver must be in writing, i.e., on the back of the ticket or in a separate document which will be attached to the citation.
- h) If a jury trial or transfer is requested, the Municipal Court will bind the case over to the appropriate authorized court immediately. A preliminary hearing will be conducted by the appropriate Fulton County court, if requested.

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- i) The Municipal Court Clerk will follow the current procedures in writing or on the applicable Bind-Over Package to the County. The Bind-Over package will, at a minimum, include: citations, incident report, intoximeter report, commitment form, bond documents, bind over form and other appropriate documents.
 - j) If the defendant waives his/her right to a jury trial that case will remain in the Municipal Court of Atlanta, assuming jurisdiction.
2. Traffic charges with Additional Misdemeanor and/or Felony Charges
 - a) For any traffic arrest made within the City of Atlanta that has either misdemeanor and/or felony charges arising out of a traffic stop, the arrestee will be booked into the Atlanta City Detention Center and handled in accordance with this SOP.
 - b) The Municipal Court Solicitor will screen said case for an appropriate resolution at the City level.
 - c) If all charges cannot be resolved at the City level, the entire case (traffic and other charges) will be bound over to the appropriate court of Fulton County upon probable cause being established.
 - d) If the Municipal court finds at any time that it lacks jurisdiction the case will be bound-over to the appropriate court or venue immediately.
 - e) The same procedures used for traffic only cases will be implemented. (See I.A.1, above).
- B. State Agencies
1. Traffic Charges Only
 - a) The Municipal Court will continue to accept cases from state agencies and others who are currently booking traffic cases in the City Court of Atlanta.
 - b) These cases will be handled using the same procedures as the cases originating from the Atlanta Police Department.
 2. Traffic with Additional Misdemeanor and/or Felony Charges
 - a) The Municipal Court will continue to accept cases from state agencies and others who are currently booking traffic cases in the City Court of Atlanta including cases which have a misdemeanor and/or felony charge arising out of a traffic offense.

- b) These cases will be handled using the same procedures as the cases originating from the Atlanta Police Department.

II. Treatment of Pending Cases

A. Pending Cases (Unaccused cases in the Office of Solicitor & Accused cases in the City Court of Atlanta)

1. On the effective date of this agreement, the Municipal Court will begin hearing traffic non-jury cases in an effort to alleviate the workload of the City Court of Atlanta so that the City Court can concentrate only on pending cases.
2. All pending accused and unaccused cases in City Court, wherein the defendant has demanded a jury trial as of the effective date of the Intergovernmental Agreement, will be transferred to the appropriate Fulton County Court immediately.
 - d) Jury trial cases will be transferred to the appropriate Fulton County court as of the effective date of the IGA.
 - b) If there is a written waiver of the right to a jury trial or there has been no request for a transfer, the Municipal Court maintains jurisdiction over the charges it is authorized to dispose of.
 - c) The City of Atlanta will be responsible for the retention of the records and the defense of all appellate proceedings regarding all jury cases the City Court disposed of.
 - d) Jury trial cases remaining as of the effective date of the IGA will be transferred to the appropriate Fulton County Court immediately by order of the Chief Judge of the Municipal Court.
 - e) The City Court of Atlanta will make every effort to resolve any backlog of cases prior to transfer, and the City Court shall provide a monthly progress report to Fulton County, beginning on the date of this agreement.
 - f) As of the effective date of the IGA, the Chief Judge of Municipal Court will identify and transfer all residual jury trial demand cases from the City's backlog, and such cases will be immediately bound-over to the appropriate Fulton County court.
 - g) The number of residual jury cases still pending, as certified in accordance with the above paragraph, shall be bound-over to the Fulton County courts as of the effective date of the IGA and will

be the number by which the City will determine its obligation to provide personnel assistance to Fulton County.

B. Failures to Appear (FTAs)

1. For defendants with a case scheduled for hearing prior to the effective date of the IGA in the City (Traffic) Court of Atlanta and who fail to appear in said Court, the following procedure will apply.
 - a) A warrant will issue for his/her arrest returnable to the Municipal Court for 60 (sixty) days from the hearing date at which defendant failed to appear.
 - b) The bond, if any, will be forfeited according to existing law and regulations.
 - c) Upon arrest on said warrant, or upon other recovery within 60 (sixty) days of the date from which the defendant failed to appear, the defendant will be remanded to the City of Atlanta for resolution of the underlying case, if the Municipal Court has jurisdiction. If the Municipal Court does not have jurisdiction the case shall immediately be bound over to the appropriate Fulton County court where the FTA charge will be disposed of.
2. All FTA cases pending in the City Court of Atlanta as of the effective date of the IGA, will be transferred to the Municipal Court Solicitor's Office.
3. On January 1, 2005, all FTAs pending in the City Court were transferred to the Municipal Court.
 - a) Each FTA will be reviewed to determine if a warrant was issued and if the warrant is still valid or invalid for various reasons including a review of whether the statute of limitations has expired.
 - b) Prior to the transfer of the case to the appropriate Fulton County court, any warrants pending for FTA will be dismissed and a charge of FTA will be written and forwarded to the appropriate Fulton County Court along with other charges. The bond, if any, will be forfeited according to the existing law and regulations.
 - c) Upon arrest on said warrant or upon other recovery, the defendant will be remanded to the Municipal Court of Atlanta for resolution of the underlying charge that it is authorized to handle and the FTA but all other cases will be transferred to the appropriate court.

4. As of the effective date of the IGA, those defendants who requested and/or demanded a jury trial or a transfer will be immediately bound-over to the appropriate Fulton County court.
5. Each defendant arrested/recovered from an FTA will be handled pursuant to the procedure outlined in I(A)(1) *et seq.*
6. The City Court of Atlanta shall establish a “tickler” system to notify the appropriate Fulton County court officials of the status of FTAs in a timely and reasonable manner and the Municipal Court clerk will have a call center or information line for all inquiries about traffic cases.

RCS# 6701
5/16/05
3:39 PM

Atlanta City Council

Regular Session

05-R-0879

INTERGVMNMT'L AGRMNT FULTON CO/COA S.O.P
PROCESS TRANSFER TRAFFIC CASES
ADOPT

YEAS: 12
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	NV Moore	Y Mitchell
Y Starnes	B Fauver	N Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

05-R-0879

(Do Not Write Above Line)

A RESOLUTION BY
PUBLIC SAFETY AND LEGAL AFFAIRS
COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH FULTON COUNTY TO ESTABLISH THE STANDARD OPERATING PROCEDURES BETWEEN THE CITY OF ATLANTA AND FULTON TO GUIDE THE PROCESS OF TRANSFERRING APPROPRIATE TRAFFIC OFFENSE CASES FROM THE MUNICIPAL COURT TO FULTON COUNTY, AND FOR OTHER PURPOSES.

ADOPTED BY

MAY 16 2005

COUNCIL.



- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred _____

Referred To: _____

Date Referred _____

Referred To: _____

Date Referred _____

Referred To: _____

First Reading

Committee _____

Date _____

Chair _____

Referred To _____

PSLA Committee

Date



6 years Action / May
Fav, Adv, Hold (see rev. side)

Members



Committee

Date

Chair

Action
Fav, Adv, Hold (see rev. side)
Other

Members

Committee

Date

Chair

Action
Fav, Adv, Hold (see rev. side)
Other

Members

Refer To

Committee

Date

Chair

Action
Fav, Adv, Hold (see rev. side)
Other

Members

Refer To

Refer To

FINAL COUNCIL ACTION

2nd 1st & 2nd 3rd

Consent V Vote RC Vote

CERTIFIED

MAY 16 2005

CERTIFIED

MAY 16 2005



MUNICIPAL CLERK

MAYOR'S ACTION



MAYOR