10-O-0503

AN ORDINANCE BY COUNCILMEMBER IVORY YOUNG
AS SUBSTITUTED AND AMENDED BY FULL COUNCIL
AS SUBSTITUTED BY THE FINANCE AND EXECUTIVE COMMITTEE

AUTHORIZING THE LEASE/PURCHASE OF THE ATLANTA DETENTION CENTER TO FULTON COUNTY, AN AGREEMENT TO HOUSE CITY INMATES IN THE DETENTION CENTER AND THE LEASE OF COURT SPACE TO FULTON COUNTY; AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY DOCUMENTS TO EFFECTUATE THE APPROVED TERMS OF THE LEASE PURCHASE OF THE DETENTION CENTER, THE HOUSING OF CITY INMATES IN THE DETENTION CENTER AND THE LEASE OF THE COURT SPACE; AND FOR OTHER PURPOSES.

WHEREAS, the City passed 09-R-1193 and 10-R-0406 authorizing a team of elected officials to negotiate an agreement for the sale or lease of the Atlanta Detention Center to Fulton County or other interested parties; and

WHEREAS, the negotiation team evaluated several options for the Lease/Purchase of the Detention Center; and

WHEREAS, continuing to operate the Detention Center and lease beds to Fulton County to help relieve the County's overcrowding issue did not result in a financial benefit to the City; and

WHEREAS, soliciting bid proposals from all potential interested parties in the current economic market had the potential to result in few if any bids worth taking; and

WHEREAS, executing a transaction directly with Fulton County with the intent of transferring ownership to Fulton County would result in a mutually beneficial solution that addresses the needs of both parties while addressing the concerns of the Courts; and

WHEREAS, the negotiating team determined that it was in the best interests of both the City and the County to execute a transaction directly with Fulton County; and

WHEREAS, the negotiation team, consistent with 09-R-1193 and 10-R-0406, and members of the governing authority of Fulton County have met several times to negotiate the terms for the sale or lease of the Detention Center; and

WHEREAS, the elected officials have reached an agreement within the spirit of resolution 09-R-1193 and 10-R-0406; and

WHEREAS, the necessary Intergovernmental Agreements ("IGAs"), including a Lease Purchase Agreement relating to the Detention Center, an Inmate Services Agreement

relating to the housing of City inmates in the Detention Center and a Lease Agreement relating to the lease of court space, have been prepared and are attached as exhibits hereto; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1. That the Mayor is authorized to execute the necessary IGAs in substantially the forms attached hereto, subject to such changes approved by the City Attorney, which IGAs contain the following substantive terms:

- Fulton County will purchase the Atlanta Detention Center from the City of Atlanta through an IGA taking the form of a Lease-Purchase Agreement.
  - Lease to commence July 1, 2010
  - Lease term to run from 2010 to 2024 (15 years)
  - Fulton County to make 13 annual lease payments of $3.2 million starting on Jan 1, of 2012). Last payment on Jan 1, 2024
  - Fulton County to purchase the facility for $10 at the end of the lease term
- City shall compensate Fulton County in an amount not to exceed $2,000,000 for the purpose of performing the repairs, modifications and improvements as noted in the Fulton County Feasibility Study. Fulton County will provide the City with access to up to 400 jail beds in the Atlanta Detention Center per day for the purpose of housing the City's municipal inmates; provided, however, the City shall be able to house more than 400 inmates at the same rate provided the Sheriff of Fulton County determines that additional space is available to accommodate such additional inmates. City will pay Fulton County $78/day/bed on an as used basis with a guarantee of 200 beds used per day for the period from July 1, 2010 through June 30, 2011. Thereafter, the City shall pay the same rate paid to Fulton County by the U.S. Marshalls for so long as the U.S. Marshall's utilize the detention facility. If the U.S. Marshalls discontinue use of the facility, the City will pay a rate determined by utilizing the US Marshall's Service Cost Sheet for Detention Services and such rate can only be recalculated every three years.
- The City will lease to Fulton County three courtrooms (to be designated by the City) and the tunnel connecting the Atlanta Detention Center to the Atlanta Municipal Court at a monthly rental rate payable by Fulton County in an amount equal to 9.00% of the product of the current daily rate payable under the Inmate Services Agreement multiplied by 400 (representing the total number of beds in the Detention Center allocated to the City) multiplied by the total number of days elapsed in the current month. For the first year of the Lease, the County will pay lease payments to the City in the total amount of $1,024,920.
- Fulton County will provide current City employees first opportunity to apply for and be considered for employment at the Facility and the County will use its best efforts to retain current City employees at the Facility

SECTION 2. That the Agreement(s) will not be binding upon the City and the City will incur no liability under it until it has been executed by the Mayor or his designee, attested to by the Municipal Clerk, approved by the city Attorney as to form and delivered to the contracted parties.

LEASE PURCHASE AGREEMENT

BETWEEN

THE CITY OF ATLANTA, GEORGIA,

AS LESSOR

AND

FULTON COUNTY, GEORGIA

AS LESSEE

DATED AS OF JULY 1, 2010

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LEASE PURCHASE AGREEMENT

STATE OF GEORGIA
COUNTY OF FULTON

This LEASE PURCHASE AGREEMENT, dated as of July 1, 2010 (this "Agreement"), is entered into by and between the City of Atlanta, a municipal corporation of the State of Georgia, as Lessor, and Fulton County, Georgia, a political subdivision of the State of Georgia, as Lessee.

W I T N E S S E T H:

WHEREAS, the City and the County are entering into this Agreement to provide for the terms of the lease of the Facility (defined below); and

WHEREAS, pursuant to that certain Indenture of Trust and Assignment of Installment Sale Agreement, dated as of November 1, 1998 (the "Indenture") between the Georgia Municipal Association, Inc. (the "Issuer") and The Bank of New York, as trustee (the "Trustee"), the Issuer executed and delivered its Installment Sale Program Certificates of Participation (City of Atlanta, Georgia Detention Center, Municipal Court and City Hall East Projects), Series 1998 (the "Certificates"), in the original aggregate principal amount of $103,130,000, to finance or refinance City Hall East, Atlanta Municipal Court and the Pre-Trial Detention Center (the "Facility"), which Facility is the subject property of this Agreement (collectively, the "1998 Project"); and

WHEREAS, pursuant to that certain Installment Sale Agreement, dated as of November 1, 1998 (the "Installment Sale Agreement"), between the City and the Issuer, the City currently owns and operates the Facility and is obligated to make scheduled debt service payments on the Certificates; and

WHEREAS, the Certificates are secured, in part, by the lien on the Facility created by the Deed to Secure Debt and Security Agreement, dated as of November 1, 1998 (the "Security Deed"); and

WHEREAS, in connection with the issuance of the Certificates, Financial Security Assurance, Inc., now Assured Guaranty Municipal (together with its successors, the "Insurer"), issued a Municipal Bond Insurance Policy guaranteeing the scheduled payments of principal and interest due on the 1998 Certificates; and

WHEREAS, under the terms of the Installment Sale Agreement, the City is authorized to lease or otherwise transfer all or a part of the 1998 Project, including the Facility, upon obtaining the written consent of the Issuer and the Insurer; and

WHEREAS, the Issuer and the Insurer have consented in writing to the lease of the Facility by the City to the County (copies of which are included as Exhibit D hereto), provided, however, the Facility shall continue to be subject to the lien of the Security Deed and the City shall remain obligated under the terms of the Installment Sale Agreement; and

WHEREAS, the Facility to be leased hereunder shall be as generally described on Exhibits A and B hereto and located on the real property described on Exhibit B hereto; and

WHEREAS, after careful review and consideration, the governing bodies of the City and the County have each determined that it is in the their best interests to lease the Facility under the terms set forth in this Agreement;

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the City and the County agree as follows:

ARTICLE I.
DEFINITIONS; USE OF PHRASES

Section 1.1. Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless the context or use indicates another or different meaning or intent:

"Agreement" means this Lease Purchase Agreement, as the same now exists and as the same may hereafter be amended or supplemented.

"Certificates" means all of the Outstanding Georgia Municipal Association, Inc. Installment Sale Program Certificates of Participation (City of Atlanta, Georgia Detention Center, Municipal Court and City Hall East Projects), Series 1998.

"City" means the City of Atlanta, Georgia, a municipal corporation of the State of Georgia, and any successor public entity, body, or authority to which is hereafter transferred or delegated by law the duties, powers, authorities, obligations, or liabilities of the City of Atlanta, Georgia.

"Code" means the Internal Revenue Code of 1986, as amended, and any regulations promulgated or applicable thereunder.

"County" means Fulton County, Georgia, a political subdivision of the State of Georgia, and any successor public entity, body, or authority to which is hereafter transferred or delegated by law the duties, powers, authorities, obligation or liabilities of Fulton County, Georgia.

"Facility" means the City of Atlanta, Georgia Detention Center, as more particularly described on Exhibit "A" hereto.

"Furniture and Equipment" means (a) any items of furniture, machinery and equipment installed in the Facility, and (b) any item of machinery or equipment acquired and installed in the Facility in substitution for the items of machinery and equipment described in (a) above but not including the County's own machinery and equipment installed under the provisions of Section 5.1(d) hereof.

"Indenture" means that Indenture of Trust and Assignment of Installment Sale Agreement, dated as of November 1, 1998, between Georgia Municipal Association, Inc., as trustor, and The Bank of New York, as trustee, relating to the Certificates.

"Installment Sale Agreement" means that Installment Sale Agreement, dated as of November 1, 1998, between Georgia Municipal Association, Inc. and the City relating to the Certificates.

"Lease Term" means the duration of the County's right to occupy and use the Facility as specified in Section 4.1 hereof.

"Net Proceeds" when used with respect to any insurance or condemnation award, means the gross proceeds from the insurance or condemnation award remaining after payment of all expenses, including attorneys' fees, incurred in the collection of such gross proceeds.

"Outstanding" means, when used in reference to the Certificates, all Certificates which have been duly authenticated and delivered under the Indenture for which payment or provision for payment thereof has not been made in accordance with the Indenture.

"Permitted Encumbrances" means, as of any particular time, (i) the encumbrances created by this Agreement, the Installment Sale Agreement and the Indenture, all as listed on Exhibit "A" hereto, (ii) utility, access and other easements and rights of way, restrictions, reservations, reversions and exceptions which are specified in Exhibit "A" hereto, (iii) unfiled and inchoate mechanics' and materialmen's liens for construction work in progress, and (iv) mechanics', materialmen's, suppliers' and vendors' liens or other similar liens not then payable or permitted to exist as provided in Section 5.1 hereof.

"State" means the State of Georgia.

"Trustee" means the trustee designated under the Indenture and any successors or assigns thereof.

Section 1.2. Use of Phrases. "Herein," "hereby," "hereunder," "hereof," "hereinabove," "hereinafter," and other equivalent words refer to this Agreement and not solely to the particular portion hereof in which any such word is used. The definitions set forth in Section 1.1 hereof include both singular and plural. Whenever used herein, any pronoun shall be deemed to include both singular and plural and to cover all genders.

ARTICLE II.
REPRESENTATIONS

Section 2.1. Representations and Agreements of the City. The City makes the following representations and agreements as the basis for the undertakings on its part herein contained:

(a) The City is a municipal corporation and a political subdivision under the laws of the State having power to enter into and execute and deliver this Agreement and, by proper action of its governing body, has authorized the execution and delivery of this Agreement and the taking of any and all such actions as may be required on its part to carry out, give effect to, and consummate the transactions contemplated by this Agreement, and no approval, referendum or other action by any governmental authority, agency, or other person or persons is required in connection with the delivery and performance of this Agreement by it except as shall have been obtained as of the date hereof;

(b) This Agreement has been duly executed and delivered by the City and constitutes the legal, valid, and binding obligation of the City, enforceable in accordance with its terms, except as enforcement may be limited by the application of equitable principles;

(c) The authorization, execution, delivery, and performance by the City of this Agreement and compliance by the City with the provisions hereof do not and will not violate the laws of the State relating to the City or constitute a breach of or a default under, any other law, court order, administrative regulation, or legal decree, or any agreement, or other instrument to which it is a party or by which it is bound; and

(d) There is no litigation or proceeding pending, or to the knowledge of the City threatened, against the City or any other person having a material adverse effect on the right of the City to execute this Agreement or its ability to comply with any of its obligations under this Agreement.

Section 2.2. Representations and Agreements of the County. The County makes the following representations and agreements as the basis for the undertakings on its part herein contained:

(a) The County is a political subdivision under the laws of the State having power to enter into and execute and deliver this Agreement and, by proper action of its governing body, has authorized the execution and delivery of this Agreement and the taking of any and all such actions as may be required on its part to carry out, give effect to, and consummate the transactions contemplated by this Agreement, and no approval, referendum or other action by any governmental authority, agency, or other person or persons is required in connection with the delivery and performance of this Agreement by it except as shall have been obtained as of the date hereof;

(b) This Agreement has been duly executed and delivered by the County and constitutes the legal, valid, and binding obligation of the County, enforceable in accordance with its terms, except as enforcement may be limited by the application of equitable principles;

(c) The authorization, execution, delivery, and performance by the County of this Agreement and compliance by the County with the provisions hereof do not and will not violate the laws of the State relating to the County or constitute a breach of or a default under, any other law, court order, administrative regulation, or legal decree, or any agreement, or other instrument to which it is a party or by which it is bound; and

(d) There is no litigation or proceeding pending, or to the knowledge of the County threatened, against the County or any other person having a material adverse effect on the right of the County to execute this Agreement or its ability to comply with any of its obligations under this Agreement.

ARTICLE III.
LEASING CLAUSES AND QUIET ENJOYMENT

Section 3.1. Lease of Facility. The City hereby leases to the County and the County leases from the City the Facility at the rental rate set forth in Section 4.3 hereof and in accordance with the provisions of this Agreement.

Section 3.2. Quiet Enjoyment. The City covenants and warrants that it will defend the County in the quiet enjoyment and peaceable possession of the Facility, and all appurtenances thereto belonging, free from all claims of all persons whomsoever claiming by or through the City throughout the Lease Term, so long as the County shall perform the covenants, conditions and agreements to be performed by it hereunder. The City hereby warrants to the County that the City currently has good, valid and marketable title in and to the Facility, subject to any and all liens and other encumbrances encumbering the Facility (or any portion thereof or interest therein), including liens and encumbrances in connection with the issuance of the Certificates, all of which are identified specifically on Exhibit "C" hereto, and further subject to all claims of all persons whomsoever other than those claiming by or through the City.

Section 3.3. Subordination. Notwithstanding anything to the contrary contained in this Agreement, the County acknowledges and agrees that the Facility and all of the County's rights in and to the Facility are subject and subordinate to the Security Deed and the Installment Sale Agreement in effect with respect to the Certificates.

ARTICLE IV.
EFFECTIVE DATE OF THIS AGREEMENT; DURATION OF LEASE TERM; RENTAL PROVISIONS

Section 4.1. Effective Date of this Agreement; Duration of Lease Term. This Agreement shall become effective on July 1, 2010; and the leasehold estate created under this Agreement shall then begin and, subject to the provisions of this Agreement (including particularly Articles IX and X hereof), shall expire on the later of (a) 12:01 a.m. on January 3, 2024 or (b) such other date on which all rental payments required hereunder have been paid to the City; provided, however, in the event the County has paid all rental payments due hereunder, but the Certificates remain outstanding and the Security Deed in effect, this Agreement shall continue in effect until the Security Deed is released without further payment obligation of the County and provided further that the term of this Agreement shall not extend beyond the date which is fifty years after the effective date of this Agreement.

Section 4.2. Delivery and Acceptance of Possession. The City agrees to deliver to the County sole and exclusive possession of the Facility (subject to Section 3.3 hereof, including the right of the Georgia Municipal Association, Inc., as trustor, to enter thereon for inspection purposes pursuant to Section 14.02 of the Installment Sale Agreement, which Installment Sale Agreement has been assigned to the Trustee under the terms of the Indenture, and to the other provisions of Section 7.2 hereof) on July 1, 2010. The County hereby accepts and shall have possession of the Facility on July 1, 2010.

Section 4.3. Rents and Other Amounts Payable.

(a) Rents shall be due and payable by the County to the City on or before January 2, 2012 and annually thereafter on or before January 2nd of each year through January 2, 2024. The annual rent due hereunder shall be in the amount of $3,200,000. In the event that the County fails to make a scheduled payment to the City, any unpaid balance shall accrue with interest from the first day the payment is past due at the rate of 3.00%.

(b) The County covenants that it will exercise its power of taxation to the extent necessary to pay the amounts required to be paid under this Section 4.3 and it will make available and use for the payment of its obligations incurred under this Section 4.3 all such taxes levied and collected for that purpose together with funds received from any other sources. The County further covenants and agrees that in order to make such funds available for such purpose in each fiscal year, it will, in its revenue, appropriation, and budgetary measures whereby its tax funds or revenues and the allocation thereof are controlled or provided for in each fiscal year during the Lease Term, include sums sufficient to satisfy the payments required to be made under this Agreement, whether or not any other sums are included in such measure, until all payments required to be made hereby shall have been made in full. The obligation of the County to make the payments provided for pursuant to the terms of this Agreement shall constitute a general obligation of the County and a pledge of the full faith and credit of the County to provide the monies required to fulfill such obligation.

Section 4.4. Place of Rental Payments. The rent provided for in Section 4.3 hereof shall be made payable to the City of Atlanta, Georgia and delivered to the address as follows:

City of Atlanta
Department of Finance
68 Mitchell Street, SW
Atlanta, Georgia 30303-3520
Account Reference:

The City may provide to the County written wire instructions or other directions as to the payments of all rental payments and such written instructions shall be in effect as provided.

ARTICLE V.
MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 5.1. Maintenance and Modifications of Facility by the County.

(a) The County shall, at its own expense, maintain, manage and operate the Facility and all improvements therein in good order, condition and repair, ordinary wear and tear expected. The County shall provide or cause to be provided all security service, custodial service, janitor service, power, gas, telephone, light, heating and water, and all other public utility services. The County shall keep the Facility and any and all improvements thereto free and clear of all liens, charges and encumbrances, except for the Permitted Encumbrances and those caused or consented to in writing by the City.

(b) The County shall suffer no waste or injury to the Facility, ordinary wear and tear excepted. The County will pay for all damage to the Facility due to any waste, misuse, or neglect by the County, its agents, servants, employees, independent contractors, licensees or invitees or any other person. In addition, the County shall comply with all applicable federal and state statutes, rules and regulations and city and county ordinances relating to the operation of the Facility. The County shall not place a load upon any floor of the Facility exceeding the floor load per square foot area which such floor was designed to carry and which may be allowed by law.

(c) Pursuant to this Section 5.1, the City is assigning its obligation to maintain the Facility under Section 6.01 and Section 6.02 of the Installment Sale Agreement to the County. Any cost borne by the City in connection with the maintenance of the Facility pursuant to the enforcement of the provisions of the Installment Sale Agreement shall be reimbursed to the City by the County and shall become added to the amounts due to the City as rental payments hereunder. Upon receipt of an invoice from the City detailing such expenses, the County shall pay such costs and expenses within 45 days.

(d) The County may from time to time, in its sole discretion and at its own expense, make any additions, modifications, or improvements to the Facility, including installation of additional machinery, equipment, furniture, or fixtures, which it may deem desirable for its purposes, provided that no such addition, modification, and improvement shall adversely affect the structural integrity of the Facility or shall materially reduce or otherwise adversely affect the value of the Facility, materially alter or change the character or use of the Facility or impair the exclusion from gross income of the interest component of the Certificates for federal income tax purposes. Machinery, equipment, furniture, and fixtures so installed by the County shall not be deemed to constitute a part of the Facility, shall remain the sole property of the County (or may be mortgaged or otherwise encumbered by the County), and may be modified or removed at any time and from time to time, provided that any damage to the Facility occasioned by such modification or removal shall be repaired in workmanlike fashion by the County at its own expense.

(e) The County shall not permit any mechanics' or other liens to be established or remain against the Facility for labor or materials furnished in connection with any addition,

modification, improvement, repair, renewal, or replacement so made by it, provided, that if the County shall first notify the City of its intention to do so, the County may in good faith contest any mechanic's or other lien filed or established against the Facility, and in such event may permit any item so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom.

Section 5.2. Removal of Furniture and Equipment. The City shall not be under any obligation to renew, repair, or replace any inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary Furniture and Equipment. Whenever the County in its discretion so desires, the County may remove any such inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary item of Furniture and Equipment from the Facility without any responsibility or accountability to the City therefor.

Section 5.3. Taxes, Other Governmental Charges and Utility Charges.

(a) The City and the County acknowledge that under present law the City's ownership of the Facility will not be subject to ad valorem taxation by the State or by any political or taxing subdivision thereof. The County will pay, as the same respectively become lawfully due and payable, (i) any and all taxes and governmental charges of any kind whatsoever levied upon or with respect to the County's interest in this Agreement and the Facility, (ii) any and all taxes and governmental charges of any kind whatsoever levied upon or with respect to the Facility or any machinery, equipment, or other property installed or brought by the County therein or thereon, (iii) all utility and other charges incurred in the operation, maintenance, use, occupancy, and upkeep of the Facility, and (iv) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by lien on the Facility; provided that, with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the County shall be obligated to pay only such installments as are required to be paid during the Lease Term.

(b) The County may, at its expense and in its own name and on behalf or in the name and on behalf of the City, in good faith, contest any such taxes, assessments, and other charges and, in the event of any such contest, may permit the taxes, assessments, or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom. The City will cooperate fully with the County in any such contest. In the event that the County shall fail to pay any of the foregoing items required by this Section to be paid by the County, the City may (but shall be under no obligation to) pay the same, and any amounts so advanced by the City shall become added to the amounts due to the City as rental payments hereunder.

Notwithstanding anything to the contrary contained herein, the City shall have no obligation or responsibility to pay ad valorem taxation by the State or any other political or taxing subdivision thereof.

Section 5.4. Insurance Required. The County agrees to insure the Facility with insurance companies licensed to do business in the State, in such amounts and in such manner and against such loss, damage, and liability, including liability to third parties, as are customarily insured against by governmental entities with respect to County property such as the Facility, and pay the premiums thereon. The policies which embody such insurance may reflect such

deductibles as are deemed appropriate by the County. The foregoing insurance coverage shall include such public liability insurance as is in accordance with the practice of the County for facilities of which the County is the owner.

All insurance herein provided shall be effected under policies issued by insurers of recognized responsibility, rated "A" or better by A.M. Best or in the two highest rating categories of S&P and Moody's, licensed or permitted to do business in the State of Georgia. The County may with the written consent of the City, insure such property to the same extent under a blanket insurance policy or policies which cover not only such property but other properties.

Section 5.5. Application of Net Proceeds of Insurance. The Net Proceeds of any fire and casualty insurance carried pursuant to the provisions of Section 5.4 hereof shall be applied as provided in Section 6.1 hereof, and the Net Proceeds of any liability or workmen's compensation insurance carried pursuant to the provisions of Section 5.4 hereof shall be applied towards extinguishment or satisfaction of the liability with respect to which such insurance proceeds are paid.

Section 5.6. Additional Provisions Respecting Insurance. All policies or certificates or other documents issued by the respective insurers for insurance shall provide that such policies or certificates shall not be cancelled or materially changed without at least thirty (30) days prior written notice to the City. All policies of insurance (except the policy of property damage insurance) must list the City, Issuer and Insurer as additional insureds. All policies of property damage insurance must list the City, Issuer and Trustee as loss payees and mortgagees. All claims, regardless of amount, may be adjusted by the County with the insurers.

The County shall deliver a certificate to the City on the date of the execution of this Agreement and no later than December 1 of each year thereafter, upon which the City may conclusively rely, stating in effect that all policies of insurance relating to the Facility are in compliance with Section 5.4.

ARTICLE VI.
DAMAGE, DESTRUCTION AND CONDEMNATION

Section 6.1. Damage and Destruction. If, prior to full payment of the Certificates (or provision for payment thereof having been made in accordance with the provisions of the Indenture), the Facility or any part thereof is damaged by fire or other casualty, the County, with the cooperation of the City shall promptly complete, repair, rebuild, or restore the property damaged to substantially the same condition as it existed prior to the event causing such damage, with such changes, alterations, and modifications (including the substitution and addition of other property) as may be desired by the County and which will not impair the operating unity or productive capacity or character of the Facility, or such portion thereof, applying for such purposes so much as may be necessary of any Net Proceeds of insurance resulting from such claims or such losses as well as any additional monies of the County as are necessary therefor. The County hereby agrees that any repair, restoration, modification, improvement, or replacement paid for in whole or in part out of such Net Proceeds shall constitute part of the 1998 Project subject to the lient of the Installment Sale Agreement and the Security Deed.

If the Certificates are no longer Outstanding, the County may exercise the option to purchase the Facility by paying the balance of any rental payments to be paid hereunder that have not been paid on the date of purchase, including all payments required through the end of the Lease Term, and the purchase price of $10.00 as provided in Section 10.1 hereof.

Section 6.2. Condemnation. During the Lease Term, in the event that title to, or the temporary use of, the Facility or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, the County shall be obligated to continue to make the rental payments specified in Section 4.3 hereof. Any Net Proceeds received from any award made in such eminent domain proceedings shall be applied to the restoration of the Facility to substantially the same condition as it existed prior to the exercise of said power of eminent domain.

(a) The City shall cooperate fully with the County in the handling and conduct of any prospective or pending condemnation proceeding with respect to the Facility and will, to the extent it may lawfully do so, permit the County to litigate in any such proceeding in the name and on behalf of the City. In no event will the City voluntarily settle, or consent to the settlement of, any prospective or pending condemnation proceeding with respect to the Facility without the written consent of the County.

(b) The County shall not, by reason of the use of any condemnation proceeds pursuant to this Section, be entitled to any reimbursement from the City or abatement or reduction of the rent payable under Section 4.3 hereof.

ARTICLE VII.
SPECIAL COVENANTS

Section 7.1. No Warranty of Condition or Suitability by the City. The City makes no warranty, either express or implied, as to the condition of the Facility or that it will be suitable for the County's purposes or needs.

Section 7.2. Inspection of the Facility. The County agrees that the City and its duly authorized agents, including the Trustor under the Installment Sale Agreement and the Trustee under the Indenture, shall have the right at all reasonable times to enter upon the Facility and to examine and inspect the Facility.

Section 7.3. Granting of Easements. If no default hereunder shall have occurred and be continuing hereunder, the County may at any time or times cause to be granted easements, licenses, rights-of-way (temporary or perpetual), and other rights or privileges in the nature of easements with respect to the Facility, or the County may cause to be released existing easements, licenses, rights-of-way, and other rights or privileges in the nature of easements, held with respect to the Facility and the City agrees that it shall execute and deliver and will cause and direct the Trustor, as necessary, to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way, or other right or privilege upon receipt of: (i) a copy of the instrument of grant or release; and (ii) a written application signed by the Chairman of the Board of Commissioners of Fulton County, Georgia requesting the execution and delivery of such instrument and stating (1) that such grant or release is not detrimental to the proper conduct of the business of the County in connection with the Facility, and (2) that such grant or release will not impair the effective use or interfere with the operation of the Facility.

Section 7.4. Special Covenants Regarding Code Compliance. The County makes the following covenants regarding its use of the Facility:

(a) The Facility will be used by the County, or by departments or agencies of the County, for the purpose of performing one or more essential governmental functions, and at all times during the Lease Term shall be maintained as a Pre-Trial Detention Center;

(b) The County will not take any action or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from gross income of the interest portion of the Certificates under Section 103 of the Code.

(c) No portion of the Facility will be used directly or indirectly in a trade or business carried on by a natural person, excluding however use by a state or local governmental unit and as a member of the general public.

(d) During the Lease Term, the Facility shall not be operated or managed by any private business or entity unless the County shall have delivered to the City an opinion of a nationally recognized bond counsel firm, such firm to be approved by the City and the fees of such firm to be paid by the County, stating that such management or operation will not adversely affect the exclusion from gross income of the interest portion of the Certificates under Section 103 of the Code.

Section 7.5. Employees. The County recognizes that the City has ____ employees currently employed at the Facility and that the City has an interest in the continued employment of such employees at the Facility. The County will allow current City employees at the Facility with the required qualifications the opportunity to be the first persons to apply and be considered for employment by the County at the Facility, and the County will use its best efforts to retain current City employees at the Facility.

Section 7.6. Effect of Default by City under Installment Sale Agreement. The City is required to make certain payments to the Trustor under the Installment Sale Agreement. The Trustor has certain rights under the Installment Sale Agreement upon default by the City to institute foreclosure proceedings under the Security Deed and sell or lease the Facility, which rights have been assigned to the Insurer, as defined in the Installment Sale Agreement. Should the City default on its payment obligations under the Installment Sale Agreement, the City will use its best efforts to negotiate with the Trustor and the Insurer to ensure that this Agreement is not disturbed by any actions of the Trustor or the Insurer and will assign any rental payments to be collected under this Agreement to the Trustor to satisfy any default which has occurred. The Facility represents one of multiple parcels subject to the Security Deed in favor of the Trustor as security for the Certificates.

Section 7.7. Indemnification of City. The County shall, to the extent permitted by law, indemnify and save the City harmless from and against all claims by or on behalf of any person, firm, or corporation arising from the conduct, management, operation of, or from any work or thing done on, the Facility during the Lease Term and against and from any loss or damage to the property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Facility or the use thereof, or any and all claims, causes of action, expenses of whatsoever kind arising during the Lease Term from (a) any condition of the Facility caused by the County, (b) any breach or default on the part of the County in the performance of any of its obligations under the Agreement, (c) any act of negligence of the County or of any of its agents, contractors, servants, employees, or licensees, and (d) any act of negligence of any assigness or sublessee of the County, or of any agent, contractor, servant, employee, or licensee of any assignee or sublessee of the County, but excepting (as to (a) through (d) of the foregoing) any claims resulting from the willful or negligent actions of the City. The County shall indemnify and save the City harmless from and against any and all costs and expenses (including, without limitation, attorneys' fees and expenses actually incurred) incurred or in connection with any action or proceeding brought thereon, and upon notice from the City, the County shall defend them or any of them in any action or proceeding.

ARTICLE VIII.
ASSIGNMENT, SUBLEASING, PLEDGING AND SELLING; REDEMPTION; RENT PREPAYMENT AND ABATEMENT; ADDITIONAL BONDS

Section 8.1. Assignment and Subleasing. This Agreement may be assigned, and the Facility or any portion thereof may be subleased as a whole or in part, by the County to any assignee or sublessee with the prior written consent of the City, the Issuer and the Insurer, subject, however, to each of the following conditions:

(a) no assignment shall relieve the County from primary liability for any of its obligations hereunder, and notwithstanding any such assignment, the County shall continue to remain primarily liable for payment of the rents specified in Section 4.3 of this Agreement and for performance and observation of each of the other agreements on its part herein provided to be performed and observed by it;

(b) the assignee or sublessee shall assume the obligations of the County hereunder to the extent of the interest assigned or subleased, including any obligation or obligations with respect to any further assignment or sublease;

(c) the County shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the City a true and complete copy of each such assignment and sublease, as the case may be, including the assumption of all liabilities by such assignee or sublessee; and

(d) if the Certificates remain Outstanding, the City shall have received an opinion of a nationally recognized bond counsel firm, such firm to be approved by the City and the fees of such firm to be paid by the County, to the effect that an assignment or sublease to such person or entity will not cause a loss of the exclusion of interest on the Certificates from gross income for federal income tax purposes under Section 103 of the Code.

Section 8.2. Restrictions on Sale of Facility by City. The City agrees that it will not sell, assign, transfer or convey the Facility during the Lease Term.

ARTICLE IX.
DEFAULTS AND REMEDIES

Section 9.1. Defaults Defined. The following shall constitute "Defaults" under this Agreement and the term "Default" shall mean, whenever it is used in this Agreement any one or more of the following events:

(a) failure by the County to pay any amounts required to be paid under Section 4.3 hereof at the times specified for such payment.

(b) failure by the County to observe and perform any covenant, condition, or agreement on its part to be observed or performed under this Agreement other than as referred to in subsection (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied shall have been given to the County by the City. If a default specified in this subsection (b) is such that it can be corrected but not within the period specified herein, such default shall not constitute the basis of a Default hereunder (i) if corrective action capable of remedying such default is instituted by the County within the applicable period and diligently pursued until the default is corrected, and (ii) if the County shall within the applicable period furnish to the City a certificate executed by the County certifying that the default is such that it can be corrected but not within the applicable period and that corrective action capable of remedying such default has been instituted and is being diligently pursued and will be diligently pursued until the default is corrected;

(c) the making of any representation or warranty by the County in this Agreement if such representation or warranty is untrue, incorrect, or invalid when made; and

(d) the filing by the County of a voluntary petition in bankruptcy; the commission by the County of any act of bankruptcy; or the adjudication of the County as a bankrupt.

The foregoing provisions of this Section are subject to the following limitations: if by reason of force majeure the County is unable in whole or in part to carry out the agreements on its part herein contained, other than the obligations on the part of the County contained in Article V and Section 4.3 hereof, the County shall not be deemed in Default during the continuance of such inability. The term "force majeure" as used herein shall include, without limitation, the following: acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes, or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the County. The County agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the County from carrying out its agreements; provided, that the settlement of strikes, lockouts, and other similar disturbances shall be entirely within the discretion of the County, and the County shall not be required to make settlement of strikes, lockouts, and other similar disturbance by acceding to the demands of the opposing party or parties when such course is, in the judgment of the County, unfavorable to the County.

Section 9.2. Remedies on Default. Whenever any Default referred to in Section 9.1 hereof shall have occurred and be subsisting, the City may take any one or more of the following steps:

(a) the City may re-enter and take possession of the Facility without terminating the Agreement and sublease the Facility for the account of the County, holding the County liable for the difference between the rent and other amounts payable by such sublessee under such sublease and the rents and other amounts payable by the County hereunder;

(b) the City may terminate the Lease Term, exclude the County from possession of the Facility and use its best efforts to lease the Facility to another for the account of the City, holding the County liable for all rent and other payments due up to the effective date of such lease and for the difference between (i) the amounts that would be payable under this Agreement through the end of the Lease Term and (ii) the amount actually received under this Agreement;

(c) the City may exercise its right of set off against any amounts owed to the County pursuant to that certain Inmate Services Agreement between the City and the County dated July 1, 2010.

(d) the City may require the County to furnish copies of the books and records of the County pertaining to the Facility; and

(e) the City may take whatever action at law or in equity may appear necessary or desirable to collect the rent then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement, or covenant of the County under this Agreement.

Notwithstanding anything to the contrary contained herein, so long as the Certificates are Outstanding, the City, in its efforts to remedy a default, shall take no action that would cause interest on the Certificates to become taxable.

Section 9.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 9.4. Agreement to Pay Attorneys' Fees and Expenses. In the event the County should default under any of the provisions of this Agreement and the City should employ attorneys or incur other expenses for the collection of rent or the enforcement of performance or observance of any obligation or agreement on the part of the County herein contained, the County agrees that it will on demand therefor pay to the City the reasonable fees and expenses of attorneys and such other reasonable fees and expenses so incurred by the City.

Section 9.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE X.
OPTIONS IN FAVOR OF COUNTY

Section 10.1. Option to Purchase Facility. Upon notification from the City that the Certificates have been paid in full and are no longer Outstanding, the County shall have and is hereby granted the option to purchase the Facility. To exercise such option, the County shall give written notice to the City and shall specify therein the date of closing such purchase, which date shall be not less than forty-five (45) days nor more than ninety (90) days from the date such notice from the County is mailed. The purchase price which shall be paid to the the City in the event of its exercise of the option granted in this Section 10.1 shall be the sum of the following:

(a) an amount of money which will be sufficient to pay all remaining rental payments required under Section 4.3 hereof which have not been paid as of the date of the closing; plus

(b) the sum of ten dollars ($10.00) which shall be paid by the County to the City.

From and after the date of exercise of the option granted in this Section, any Net Proceeds of insurance or condemnation shall be paid to the County.

Section 10.2. Conveyance on Exercise of Option to Purchase. At the closing of the purchase pursuant to the exercise of any option to purchase granted by Section 10.1 hereof, the City will, upon receipt of the purchase price, deliver to the County documents conveying to the County good and marketable title to the Facility, as the Facility then exists, subject to the following: (i) those liens and encumbrances, if any, to which title to the Facility was subject on the date of execution of this Agreement; provided that the City shall cause any liens and encumbrances related to the Certificates to be released, (ii) those liens and encumbrances created by the County or to the creation or suffering of which the County consented, (iii) those liens and encumbrances resulting from the failure of the County to perform or observe any of the agreements on its part contained in this Agreement, and (iv) Permitted Encumbrances except those Permitted Encumbrances related to the Certificates which the City shall cause to be released.

ARTICLE XI.
MISCELLANEOUS

Section 11.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified mail, postage prepaid, addressed as follows:

(i) if the City, to:

City of Atlanta, Georgia
Office of the Mayor
55 Trinity Avenue
Atlanta, Georgia 30335
Attention: _____

with a copy to:

City of Atlanta, Georgia
Department of Law
Suite 4100
City Hall Tower
68 Mitchell Street, S.W.
Atlanta, Georgia 20202-3520
Attention: City Attorney

(ii) if to the County, to:

Fulton County, Georgia
_____
_____
_____

with a copy to:

County Attorney
_____
_____
_____

Section 11.2. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the City, the County and their respective successors and assigns, subject, however, to the limitations contained in this Agreement.

Section 11.3. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.4. Amendments, Changes and Modifications. This Agreement may not be effectively amended, changed, modified, altered, or terminated except as in writing signed by the parties hereto.

Section 11.5. Execution Counterparts. This Agreement 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.

Section 11.6. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

Section 11.7. Recording of Agreement. This Agreement or a memorandum form thereof in recordable form and every assignment and modification thereof may be recorded in the office of the Clerk, Superior Court, Fulton County, Georgia, or in such other office as may be at the time provided by law as the proper place for such recordation.

Section 11.8. Law Governing Construction of Agreement. This Agreement shall be governed by, and construed in accordance with, the laws of the State.

IN WITNESS WHEREOF, the City and the County have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the day first written above.

CITY OF ATLANTA, GEORGIA

ATTEST:

_____
City Clerk

By:_____
_____
Mayor

(SEAL)

As to the City of Atlanta, Georgia signed and sealed on this __ day of _____, 2010 in the presence of:

_____
Witness

APPROVED AS TO FORM:

_____
Notary Public

_____
_____
City Attorney

ATTEST:

_____
County Clerk

(SEAL)

As to the Fulton County, Georgia signed and sealed on this __ day of _____, 2010 in the presence of:

_____
Witness

_____
Notary Public

FULTON COUNTY, GEORGIA

By:_____
John H. Eaves
Chairman

APPROVED AS TO FORM:

_____
County Attorney

EXHIBIT A

PRETRIAL DETENTION CENTER

EXHIBIT B

LEGAL DESCRIPTION OF SITE

EXHIBIT C

PERMITTED ENCUMBRANCES

EXHIBIT D

CONSENTS TO LEASE

INMATE SERVICES AGREEMENT BETWEEN THE CITY OF ATLANTA, GEORGIA AND FULTON COUNTY, GEORGIA

WHEREAS, the City of Atlanta, Georgia (the "City") has entered into that certain Lease Purchase Agreement, dated July 1, 2010 (the "Lease Purchase Agreement"), with Fulton County, Georgia (the "County") for the lease of the Atlanta Detention Center (the "Facility") by the City to the County; and

WHEREAS, pursuant to the Lease Purchase Agreement, the County will occupy and operate the Facility and has the option to purchase the Facility at the end of the Lease Term, as defined therein; and

WHEREAS, the City has a need to continue to provide for the housing of inmates and to provide for the provision of services to inmates; and

WHEREAS, the County has space available in the Facility to house city inmates (as defined herein) as needed; and

WHEREAS, the City and the County now desire to enter into this Inmate Services Agreement for the housing of City inmates in the Facility;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the parties hereunto agree as follows:

ARTICLE I – GENERAL SERVICE DESCRIPTION

Section 1.1. The County agrees to accept and to provide for the secure custody, care and safekeeping of up to 400 City inmates (as hereinafter defined) per day in the Facility in accordance with federal, state and local laws, standards, policies, procedures or court orders applicable to the operations at the Facility; provided, however, the City will guarantee to pay the costs of housing no less than 200 inmates per day in the Facility at the rate set forth in Section 1.2 hereof and provided further that the County may house more than 400 inmates if the Sheriff determines that there is capacity for such additional inmates and such additional inmates shall be housed at the rate set forth in Section 1.2 hereof. Upon notification to the City, the County may house additional inmates in excess of the 400 specifically provided for herein in a location other than the Facility. The City will use the Facility as its primary facility for housing city inmates. The term "City inmate" shall mean a person being housed in connection with a violation of the City of Atlanta Code of Ordinances.

Section 1.2. From July 1, 2010 until June 30, 2011, the City will pay the County $78.00 per day per bed utilized in the Facility. Thereafter the City will pay the same rate paid by the U.S. Marshall's Service for so long as the U.S. Marshall's Service houses inmates in the Facility.

Should at any time during the term of this agreement the U.S. Marshall's discontinue housing inmates in the Facility, the City shall pay such rate as shall be calculated by utilizing the U.S. Marshall's Service Cost Sheet for Detention Services which reflects the cost of housing and providing services to an inmate and the proportional share of the operating and maintenance cost of the Facility on a per inmate basis; provided that such rate may only be adjusted by the County for the year following the termination of the use of the Facility by the U.S. Marshall's and once every three years thereafter. The City must be notified by March 1 of any adjustment to take effect on the coming July 1 of any year of this Agreement and has the right to contest any costs utilized in determining the rate to be paid by the City pursuant to the U.S. Marshall's Service Cost Sheet for Detention Services.

For purposes of determining costs owed by the City under this Agreement, any portion of the first incarceration day shall be billed as a full day. The second and subsequent incarceration day shall be billed as follows: Incarceration for a period of six hours or less shall not constitute a "day" and no fee shall be assessed; incarceration of more than six hours in a day shall constitute a full day and shall be assessed at the current daily rate.

Section 1.3 The County shall send a monthly invoice to the City detailing the amounts owed under this Agreement. The invoice must be received by the City by the 1st of the month. Payment shall be made by the City within 30 days. The invoice shall include the name of each City inmate, their specific dates of confinement, the total days to be reimbursed, the appropriate per day rate under this Agreement and the total amount billed.

Section 1.4. The City and the County acknowledge that there are certain payments due annually from the County to the City pursuant to the Lease Purchase Agreement. Should the County fail to make any payment to the City required under the Lease Purchase Agreement, the City shall have the right to offset any amounts owed the County hereunder to the extent of the deficiency owed to the City under the Lease Purchase Agreement.

ARTICLE II – SERVICES TO BE PROVIDED BY COUNTY

Section 2.1. The County will provide all booking services which shall include registering, screening and examining inmates for confinement in the Facility; inventorying and safekeeping inmates' personal property; maintaining records of arrest; and all other activities associated with processing an inmate.

Section 2.2. The County will provide inmate services and programs consistent with the minimum American Correctional Association standards for adult detention facilities in the same manner and to the same degree as provided to other inmates in the Facility.

Section 2.3. The County will provide Facility access to appropriate City officials, police officers, investigators and inmates' assigned counsel for communications with affected inmates.

Interview rooms will be made available to such persons for the purposes of interviewing inmates as necessary.

Section 2.4. The County will provide Facility access to appropriate City officials for the purpose of inspecting the Facility.

Section 2.5. The County will provide necessary medical care through its on-site service providers. If hospitalization is required, the inmate will be referred to Grady Memorial Hospital. The cost of such on-site medical care is included in the per day rate paid by the City to the County. The City shall be responsible directly to Grady Memorial Hospital for costs associated with medical care provided by Grady Memorial Hospital outside the Facility. The County shall notify the City prior to the transfer of an inmate to the hospital for treatment except in emergency situations. In the case of an emergency, the County shall notify the City of the transfer of an inmate to the hospital as soon as practicable. The County shall be responsible for the transport of City inmates between the Facility and Grady Memorial Hospital, or any other medical facility, including any costs associated therewith and shall be responsible for providing all security and guard services necessary while such City inmate is receiving treatment at Grady Memorial Hospital or any other medical facility.

Section 2.6. The County agrees to maintain a system of record keeping relative to the booking and confinement of each City inmate in such style and manner as equivalent to the County's records pertaining to its own inmates. The County shall make available, upon request, to the City or its authorized representatives, copies of said records.

Section 2.7. The County agrees to maintain and to allow the City to inspect records of all revenue and expenditures pertaining to the services provided under this Agreement.

Section 2.8. Except for those inmates eligible for correctional work detail and under the direct supervision of a corrections officer, an inmate of the City confined in the Facility shall not be removed therefrom by any person without written authorization from the City or by order of any court having jurisdiction. This section shall not apply to emergency situations necessitating the immediate removal of the inmate from the Facility for medical or other reasons.

Section 2.9. The City shall impose the additional 10% penalty on fines, bails and bonds issued by the Atlanta Municipal Court as authorized by O.C.G.A. Section 15-21-93, and such additional penalties shall be paid to the County for deposit into a special account known as the county jail fund as required by O.C.G.A. Section 15-21-93 for expenditure in accordance with O.C.G.A. Section 15-21-94.

ARTICLE III – SERVICES TO BE PROVIDED BY CITY

Section 3.1 The City will be allowed to present inmates for initial admission to the Facility at anytime, 24 hours a day, seven days a week.

Section 3.2. The City will respond to all public inquiries regarding the affected inmate's status, e.g., court dates, medical condition, etc.; and will provide a 24-hour contact name and number which County officials can access for pertinent inmate information.

Section 3.3. City inmates shall be required to adhere to all Facility activity schedules and policies, including general visitation, food service and recreation.

Section 3.4. The City will provide sufficient personal identification information to enable the County to track the confinement status of City inmates.

ARTICLE IV – ADDITIONAL TERMS

Section 4.1. This Agreement shall become effective on July 1, 2010 and shall terminate on June 30, 2060 unless either party hereto elects to terminate this agreement on an earlier date by giving ninety (90) days' written notice thereof; provided, however, the County may exercise its right to terminate only in the event the City has failed to make a payment required hereunder (subject to the City's right of set off under the Lease Purchase Agreement) that is not remedied by the City after 90 days written notice thereof from the County.

Section 4.2. Any notice hereunder shall be sufficient if sent by registered or certified U.S. Mail, addressed to:

Fulton County: Zachery Williams, County Manager
The Office of the County Manager
141 Pryor Street
Atlanta, Georgia 30303

John H. Eaves, Chair
Fulton County Commission
Fulton County Government Center
141 Pryor Street
Atlanta, Georgia 30303

City of Atlanta:_____
Municipal Court of Atlanta
150 Garnett Street, S.W.
Atlanta, Georgia 30303

City of Atlanta Law Department
Suite 4100
68 Mitchell Street, S.W.
Atlanta, Georgia 30303
Attn: City Attorney

Section 4.3. This Agreement constitutes the entire agreement between the City and Fulton County and there are no further written or oral agreements with respect thereto. No variation or modification of the agreement, and no waiver of this provision, shall be valid unless in writing and signed by parties hereto.

Section 4.4. This Agreement shall be governed in all respects, as to validity, construction, and capacity, performance, or otherwise, by the laws of the State of Georgia.

IN WITNESS THEREOF, the parties hereto have set their hands and seals.

ATTEST:

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

_____
Clerk, City of Atlanta

_____
Mayor, City of Atlanta

APPROVED AS TO FORM:

_____
City Attorney

THE COUNTY OF FULTON, a political subdivision of the State of Georgia

ATTEST:

_____
Clerk, Fulton County

_____
Zachery Williams, County Manager

_____
John H. Eaves, Chair
Fulton County Commission

_____
Theodore Jackson, Sheriff

APPROVED AS TO FORM:

_____
County Attorney

LEASE AGREEMENT BETWEEN THE CITY OF ATLANTA, GEORGIA AND FULTON COUNTY, GEORGIA FOR COURTROOMS AT THE ATLANTA MUNICIPAL COURT

THIS LEASE, made and entered into this _____ day of _____, 2010 (the "Lease"), by and between the City of Atlanta (hereinafter referred to as "City"), a political subdivision of the State of Georgia, acting by and through its duly elected Mayor and City Council, and Fulton County, Georgia (hereinafter referred to as "Fulton County"), a political subdivision of the State of Georgia, acting by and through its duly elected Board of Commissioners. This lease is authorized pursuant to an ordinance adopted by the Atlanta City Council and approved by the Mayor, a copy of said ordinance which is attached as Exhibit A and by reference hereby incorporated herein.

This Lease shall create the relationship of Landlord and Tenant between the parties hereto. The City shall be Landlord and Fulton County shall be Tenant. No estate shall pass out of the City. Fulton County only has a usufruct, not subject to levy and sale, and not assignable by Fulton County, except by written consent of the City.

W I T N E S S E T H:

WHEREAS, the City of Atlanta and Fulton County each maintain court systems for the prosecution of cases; and

WHEREAS, Fulton County is in need of courtroom space to conduct court proceedings; and

WHEREAS, the City of Atlanta has underutilized courtroom space at the Atlanta Municipal Court, located at 150 Garnett Street, S.W., Atlanta, Georgia, which is available for use by Fulton County; and

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the parties hereunto agree as follows:

ARTICLE I – USE OF FACILITIES

Paragraph 1.0. City agrees that Fulton County has sole and exclusive use of those certain courtrooms in the Atlanta Municipal Court as identified on Exhibit B hereto and the tunnel running from the Atlanta Detention Center to the Atlanta Municipal Court (subject to paragraph 1.11) as further described on Exhibit B hereto (together, the "Leased Premises") through its Lease and shall continue such possession until termination hereunder.

Paragraph 1.1. City acknowledges that the Leased Premises shall be used primarily for court operations by Fulton County but does not guarantee that the Leased Premises is suitable for any particular purpose of Fulton County.

Paragraph 1.2. At all times possible, the City shall retain title to the Leased Premises and all furniture, fixtures and equipment existing in the Leased Premises on the date of execution of this Lease.

Paragraph 1.3. It is specifically understood and agreed that the City will not make any alterations or improvements to the Leased Premises and Fulton County agrees to take the Leased Premises in an "AS IS" condition as of the date possession is tendered.

Paragraph 1.4. The City shall not be required to make any repairs to the Leased Premises other than repairs to the roof, foundation, flooring and common areas, the structural soundness of the exterior walls, doors, corridors, exterior windows and standard mechanical, heating, ventilating and air-conditioning, electrical and plumbing systems services in the Leased Premises which may be required from time to time to the extent not caused by the acts of Fulton County, its employees or agents. In no event shall the City be responsible for the maintenance of any additions or improvements which may be installed by Fulton County in the Leased Premises.

Paragraph 1.5. The City will provide housekeeping, phones (other than long distance phone service) and all utilities for the Leased Premises. The City will not provide computers or information technology services to the Leased Premises.

Paragraph 1.6. Fulton County shall provide all security necessary for operation of the Leased Premises. Fulton County agrees to abide by the security guidelines set by the Atlanta Municipal Court.

Paragraph 1.7. Fulton County agrees to keep and maintain the Leased Premises in good order and condition, deterioration by ordinary wear and tear expected.

Paragraph 1.8. Fulton County shall not make any alterations, additions or improvements to the Leased Premises or install any fixtures in the Leased Premises without the consent of the City. Any alterations, improvements and additions installed by Fulton County shall be installed in a good workmanlike and lien free manner. Any alterations, additions, improvements or fixtures installed by the County shall become part of the Leased Premises unless such can be removed by the County at its sole expense without causing any damage to the Leased Premises or unless upon removal the Leased Premises shall be returned to its original condition at the sole expense of the County.

Paragraph 1.9. The County shall not place a load upon any floor of the Leased Premises exceeding the floor load per square foot area that such floor was designed to carry.

Paragraph 1.10. Fulton County indemnifies and holds the City harmless from and against any and all loss, cost, liability, damage and expense the City may suffer or incur, including, without limitation, attorneys' fees and courts costs, arising from or related to Fulton County's use and occupancy of the Leased Premises.

Paragraph 1.11. The City retains the right to utilize the tunnel described on Exhibit B hereto to the extent required to maintain the Atlanta Detention Center and the Atlanta Municipal Court and as needed to maintain City operations.

ARTICLE II – COMPENSATION

Paragraph 2.0. Fulton County agrees to pay a monthly rental payment to the City in an amount equal to 9% of the product of the current daily rate payable under the Inmate Services Agreement, dated as of July 1, 2010, between the City and Fulton County, multiplied by 400 (representing the number of beds allocated to the City under the Inmate Services Agreement) multiplied by the number of days elapsed in the current billing month, payable in arrears on the 15th day following the end of each billing month. In the event Fulton County fails to make a scheduled payment to the City, any unpaid balance shall accrue with interest from the first day the payment is past due at the rate of 3.00%. In addition, in the event Fulton County fails to make a scheduled payment to the City, the City may exercise its right of set off against any amounts owed to Fulton County pursuant to that certain Inmate Services Agreement between the City and Fulton County dated July 1, 2010.

ARTICLE III – TERMINATION

Paragraph 3.0. The term of this Lease shall commence on July 1, 2010 and shall terminate on January 2, 2024.

Paragraph 3.1. In the event Fulton County wishes to terminate the Lease, it may do so by providing the City with not less than ninety (90) days prior written notice. The City may terminate this Lease upon sixty (60) days prior written notice upon failure of Fulton County to comply with any term, provision, covenant or agreement contained herein provided the City gives Fulton County written notice of its failure to comply and thirty (30) days from the date of the written notice to remedy such noncompliance. If the noncompliance is not remedied in thirty (30) days, the City may terminate the Lease upon sixty (60) days written notice.

Paragraph 3.2. In the event that the Leased Premises is totally destroyed by storm, fire, lightening, earthquake, or other casualty, the Lease shall terminate as of the date of destruction.

ARTICLE IV – NOTIFICATION & COMMUNICATIONS

Paragraph 4.0. Any notice hereunder shall be sufficient if sent by registered or certified U.S. Mail, addressed to:

Fulton County:

Zachery Williams, County Manager
The Office of the County Manager
141 Pryor Street
Atlanta, Georgia 30303

John H. Eaves, Chair
Fulton County Commission
Fulton County Government Center
141 Pryor Street
Atlanta, Georgia 30303

City of Atlanta:

_____
Municipal Court of Atlanta
150 Garnett Street, S.W.
Atlanta, Georgia 30303

City of Atlanta Law Department
Suite 4100
68 Mitchell Street, S.W.
Atlanta, Georgia 30303
Attn: City Attorney

ARTICLE V – VARIATIONS OR MODIFICATIONS TO LEASE

Paragraph 5.0. The Lease and Exhibit A incorporated herein constitute the entire agreement between the City and Fulton County and there are no further written or oral agreements with respect thereto. No variation or modification of the agreement, and no waiver of this provision, shall be valid unless in writing and signed by parties hereto.

Paragraph 5.1. Fulton County shall not voluntarily or involuntary or by operation of law assign, sublease or transfer this Lease or any interest therein without the prior written consent of the City.

ARTICLE VI – GOVERNING LAW

Paragraph 6.0. This lease agreement shall be governed in all respects, as to validity, construction, and capacity, performance, or otherwise, by the laws of the State of Georgia.

IN WITNESS THEREOF, the parties hereto have set their hands and seals.

ATTEST:

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

_____
Clerk, City of Atlanta

_____
Mayor, City of Atlanta

APPROVED AS TO FORM:

_____
City Attorney

THE COUNTY OF FULTON, a political subdivision of the State of Georgia

ATTEST:

_____
Clerk, Fulton County

_____
Zachery Williams
County Manager

_____
John H. Eaves, Chair
Fulton County Commission

APPROVED AS TO FORM:

_____
County Attorney