

RESOLUTION OF THE GOVERNING AUTHORITY OF DEKALB COUNTY, GEORGIA AUTHORIZING THE EXECUTION, DELIVERY AND PERFORMANCE OF A PONCE DE LEON CONTRACT BETWEEN THE FULTON-DEKALB HOSPITAL AUTHORITY AND DEKALB COUNTY, GEORGIA, REGARDING THE RENOVATION OF THE GRADY HEALTH SYSTEM'S INFECTIOUS DISEASE PROGRAM FACILITY LOCATED AT THE PONCE DE LEON CENTER AND THE PROVISION OF MEDICAL SERVICES AND HOSPITAL FACILITIES FOR THE INDIGENT SICK IN FULTON AND DEKALB COUNTIES; AUTHORIZING THE LEVY OF AN AD VALOREM TAX BY DEKALB COUNTY, GEORGIA, ON ALL PROPERTY SUBJECT TO TAXATION IN AN AMOUNT SUFFICIENT TO PAY ITS OBLIGATIONS UNDER THE PONCE DE LEON; AND FOR OTHER PURPOSES.

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

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

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

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

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

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

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

WHEREAS, the Operating Contract and the Contract (hereinafter defined) are authorized under the Act and payable by the County from specified sums derived from an annual ad valorem tax levy within the statutory seven mill limit; and

WHEREAS, the Authority and the County have determined that, in order to benefit the health and welfare of DeKalb County residents, the financing of a portion of the costs of certain improvements to the Grady Health System should be accomplished through payments made by the County pursuant to the Contract which payments will be applied to the renovation of the Grady Health System's infectious disease program facility located at the Ponce de Leon Center at 341 Ponce de Leon Avenue, Atlanta, Georgia (the "**IDP Project**"); and

WHEREAS, the Authority and the County desire to enter into an intergovernmental contract known as Ponce de Leon Contract (the "Contract") pursuant to which the Authority will agree, among other things, to facilitate the renovation of the IDP Project and to continue to provide medical services and hospital facilities needed to serve the indigent sick of DeKalb County, and the County will agree, among other things, to make payments to the Authority totaling \$4,000,000 which constitute the County's portion of the public contribution for the IDP Project (the "**DeKalb Proceeds**"); and

WHEREAS, in order to provide additional public funds to pay the costs of the IDP Project, the Authority is expected to enter into an intergovernmental contract with Fulton (the "**Fulton Contract**") pursuant to which Fulton will agree to make payments to the Authority which will result in \$8,000,000 available to pay for the costs of the renovation of the IDP Project (the "**Fulton Proceeds**"); *provided that* as a condition precedent to the execution and delivery of the Contract, the Board of Commissioners of Fulton must authorize the execution and delivery of the Fulton Contract; and

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

WHEREAS, the Authority's right to receive payments from the County under the Operating Contract from ad valorem taxes will be subordinate to the Authority's right to receive payments under this Contract which has a first and prior lien on the specified sums derived from the annual ad valorem tax levy within the statutory seven mill limit; and

WHEREAS, the Corporation has received a Certificate of Need from the Georgia Department of Community Health for the IDP Project and, prior to the execution and delivery of the Contract by the County, the Corporation must enter into a guaranteed maximum price construction contract with respect to the renovation of the IDP Project in form and substance satisfactory to the County; and

WHEREAS, it is expected that the Authority will adopt a resolution approving its execution, delivery and performance of the Contract in the near future; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF DEKALB COUNTY, GEORGIA AND THE CHIEF EXECUTIVE OFFICER OF DEKALB COUNTY, GEORGIA (COLLECTIVELY, THE "GOVERNING AUTHORITY"), and it is hereby resolved by authority of the same, that the execution, delivery and performance by the County of the Contract in substantially the form attached hereto as Exhibit A, is hereby authorized and approved, subject to such changes, insertions or omissions as may be approved by the Chief Executive Officer of the County and subject to the condition that prior to the execution and delivery of the Contract by the County, (1) the Corporation must enter into a guaranteed maximum price construction contract with respect to the

renovation of the IDP Project in form and substance satisfactory to Chief Executive Officer of the County and (2) the Board of Commissioners of Fulton must authorize the execution and delivery of the Fulton Contract. The Chief Executive Officer of the County is hereby authorized to execute and deliver the Contract for and on behalf of the County and the Clerk of the County is hereby authorized to attest to, certify and affix the seal of the County thereupon and that the execution of the Contract by the Chief Executive Officer shall constitute conclusive evidence that such Contract conforms to the provisions of this Resolution;

BE IT FURTHER RESOLVED that as part of the public/private partnership in support of the IDP Project, the Corporation must, prior to the execution and delivery of the Contract, (i) secure from private sources not less than \$12,000,000 for the renovation of the IDP Project, which may take the form of donations, pledges and corporate funds provided by the Corporation, and (ii) permit the County to review all of such commitments and pledges in the offices of the Corporation; it being understood that the identity of all donors and pledgers (other than the Woodruff Foundation and the Corporation) shall be kept confidential; and

BE IT FURTHER RESOLVED that for the purpose of providing funds for payment under the Contract, the County is hereby authorized to and shall levy an ad valorem tax upon all taxable property subject to taxation within the corporate limits of the County as now existent and as same may hereafter be altered, at such rate or rates and within the maximum millage limitation now authorized by law or such greater limitation as may hereafter be authorized by law as may be necessary to provide funds required to pay amounts owed under the Contract, as such payments shall become due and payable, and such funds are hereby irrevocably pledged and appropriated to the payment of moneys due under the Contract; provided that the County's duty to levy such tax shall abate to the extent that its revenues from other sources are used to make such payments provided for under the Contract; and

BE IT FURTHER RESOLVED that all actions heretofore taken by the County relating to the execution, delivery and performance by the County of the Contract are hereby ratified, and the Chief Executive Officer of the County and County Clerk are each hereby authorized and directed to take any and all actions, and to execute and deliver for and on behalf of the County such contracts, instruments and other documents which any of such persons may deem necessary or desirable in order to effectuate the execution, delivery and performance by the County of the Contract and the actions contemplated by this Resolution and the execution and delivery of any such contracts, instruments or other documents by any of such officers as authorized herein shall be conclusive evidence that such are authorized and approved in accordance with this Resolution; and

BE IT FURTHER RESOLVED that any or all resolutions or ordinances or parts of resolutions or ordinances in conflict with this Resolution are, to the extent of such conflict, hereby repealed, and this resolution shall take immediate effect and shall be in full force and effect from and after the date of its adoption.

[SIGNATURES ON FOLLOWING PAGE]

[COUNTERPART SIGNATURE PAGE TO RESOLUTION AUTHORIZING PONCE DE LEON CONTRACT]

ADOPTED by the Board of Commissioners of DeKalb County, this [redacted] day of [redacted], 2021.

Stephen R. Bradshaw
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this [redacted] day of [redacted], 2021.

Michael L. Thurmond
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

Barbara H. Sanders-Norwood, CCC, CMC
Clerk to the Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

Zachary L. Williams
Executive Assistant and Chief Operating Officer

APPROVED AS TO FORM:

Viviane H. Ernstes
County Attorney

EXHIBIT A

Ponce de Leon Contract (DeKalb)

CLERK'S CERTIFICATE

I, Barbara H. Sanders-Norwood, the duly appointed, qualified, and acting Clerk to the Board of Commissioners and the Chief Executive Officer of DeKalb County, Georgia (the “County”), DO HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of a resolution adopted on [REDACTED], 2021] by the Board of Commissioners of the County in a meeting duly called and assembled in accordance with applicable laws and with the procedures of the County, by a vote of ____ Yea and ____ Nay, which meeting was open to the public and at which a quorum was present and acting throughout, and that the original of the foregoing resolution appears of public record in the Minute Book of the County, which is in my custody and control.

GIVEN under my hand and the seal of the County, this [REDACTED] day of [REDACTED] 2021.

(SEAL)

Clerk, Board of Commissioners of DeKalb
County