

INTERGOVERNMENTAL CONTRACT

THIS INTERGOVERNMENTAL CONTRACT (this "Contract") is made and entered into as of August __, 2017, by and between COOK COUNTY, a political subdivision of the State of Georgia (the "County"), and TIFT COUNTY HOSPITAL AUTHORITY, a public body corporate and politic (the Authority").

WITNESSETH:

WHEREAS, pursuant to the Hospital Authorities Law (O.C.G.A. Section 31-7-70, *et seq.* as amended) (the "Hospital Authorities Law"), the Board of Commissioners of Tift County has established the Authority, and the Authority is now legally created and existing; and

WHEREAS, the Authority owns and operates medical and related facilities in Tift and Cook Counties and, in order to improve medical care in the City of Adel (the "City") and Cook County (the "County"), the Authority proposes to plan, develop and construct in the City of Adel, Cook County (a) a new acute care hospital consisting of at least eight (8) acute care beds, a twelve (12) bed geri-psychiatric unit, a six (6) bed pre- and post-care unit, an ambulatory surgical center, and ancillary hospital services (the "Hospital"); (b) ninety-five (95) long-term care beds (the "Care Beds"); and (c) a rural health clinic that is open seven (7) days a week with hours of operation commensurate with demand (the "Clinic") (the Hospital, the Care Beds and the Clinic being referred to together as the "New Facilities") at an approximately 45.17-acre site off I-75 comprised of the following parcel numbers: 0040-022 (33.33 acres), 0040-023 (2.00 acres) and 0040-004 (9.84 acres) (together, the "Site"); and

WHEREAS, in order to provide financial support to the Authority for the planning, development, construction, equipping and operation of the New Facilities (the "Project") and to cause quality medical care facilities to remain in the County to be available to its indigent sick and its poor, the County is entering into the commitments and agreements contained in this Contract; and

WHEREAS, Article IX, Section III, Paragraph I(a) of the Constitution of the State of Georgia and the Hospital Authorities Law authorize political bodies to contract for the provision of facilities or services which the contracting parties are authorized by law to furnish or provide; and

WHEREAS, the Authority is authorized to undertake the Project and enter into this Contract, pursuant to the Hospital Authorities Law, and the County is authorized to enter into this Contract and financially support the Project pursuant to constitutional and legislative authority, including Const. of 1983, art. IX, § II, ¶ I and O.C.G.A. § 48-5-220; and

WHEREAS, the County desires to enter into this Contract with the Authority for the provision of certain facilities by the Authority furthering care for its indigent sick and its poor, all in furtherance of the best interests of the residents of Cook County;

NOW, THEREFORE, for and in consideration of the premises and undertakings as hereinafter set forth, the County and the Authority DO HEREBY AGREE, as follows:

1.

This Contract shall become effective upon its date and shall continue in effect until it is fully performed, or until terminated in accordance with its terms or by subsequent written agreement of the parties. In no event shall the term of this Contract extend for more than thirty (30) years.

2.

The Authority agrees as follows:

(a) The Authority will proceed with due diligence in the planning for the Project, including continued investigation of its feasibility and ability to pay its capital and operating costs from revenues contributed or otherwise generated by the Project, and in seeking the necessary grant and debt financing. The Authority may cease such planning if it determines the Project is infeasible, not in its best interests or sufficient funding is not available on reasonable terms. If such conclusion is reached by the Authority, then it shall inform the County in writing within ten (10) days and this Agreement shall be considered null and void.

(b) The Authority, if it determines the Project is feasible, in its best interest, and sufficient funding is available on reasonable terms, will apply for and prosecute all required certificates of need (the "CON") for the New Facilities. If the CON is granted, the Financial Commitments for the Project are met, the Site is contributed to the Authority by the Downtown Development Authority of Adel, Georgia or other public body, and the Authority is successful in obtaining any remaining grant and debt financing required for the Project, the Authority will proceed with the construction, equipping, staffing and opening of the New Facilities. "Financial Commitments" for this purpose shall mean each and every one of the following: (i) the County's agreements and commitments herein; (ii) the similar agreements and commitments of the City contained in the Authority's similar contract with the City; and (iii) contribution of the Site to the Authority to include Forestry Service relocation costs without cost to the Authority. Notwithstanding the foregoing, the Authority may cease work on the Project if there occurs a change in circumstances affecting the feasibility of the Project, making the Project not in its best interest, or making sufficient funding on reasonable terms unavailable. If such conclusion is reached by the Authority, then it shall inform the County in writing within ten (10) days and this Agreement shall be considered null and void.

(c) Following the issuance of a Certificate for Occupancy for the New Facilities, the Authority or its successors-in-interest shall maintain and operate the New Facilities; provided, however, that nothing herein shall restrict any reorganization of the affairs of the Authority, including without limitation the entering into of a lease or management contract with a nonprofit organization or any affiliation or similar agreement. Notwithstanding the foregoing, any such lease or change of management shall not relieve the Authority of fulfilling its contractual obligations set forth herein.

(d) The Authority will schedule a utilization review every ninety (90) days to monitor the need for and feasibility of a 24-hour emergency treatment center. The Authority shall operate the Clinic seven (7) days per week commensurate with demand. The Authority agrees

that all patients who have checked in to the Clinic prior to the applicable closing time will be treated. In the event the Authority decides to sell or cease the operations of the New Facilities, it shall provide the County three (3) months notice of the same. Additionally, to the extent the Authority ceases operations of the New Facilities, as defined herein, within five (5) years from the issuance of the Certificate of Occupancy for the New Facilities, the Authority shall repay the County a sum equal to the payments provided by the County to the Authority pursuant to paragraph 3(a) below.

(e) Notwithstanding anything herein to the contrary, the Authority may cease work on or toward the Project or may sell or cease operation of the New Facilities and thereby terminate this Contract; provided that in such event or in the event that the Hospital is no longer licensed to operate as a hospital by the State of Georgia, the payment obligations of the County under paragraph 3(a) below paid or accrued to such time shall be honored and any further payment obligations of the County shall cease; and, provided further that, if at such time any portion of the amount paid by the County pursuant to paragraph 3(a) below remains unexpended, the Authority shall return such unexpended balance to the County.

3.

The County agrees as follows:

(a) The County shall pay to the Authority, in consideration of the undertakings of the Authority pursuant to this Contract, commencing upon issuance of the Certificate of Occupancy for the New Facilities and on the first day of each subsequent month, three hundred and sixty (360) equal monthly installments that, when discounted by a discount rate equal to the higher of (x) 3.376% or (y) the interest rate of any USDA Loan obtained by the Authority for the Hospital, equals the Net Contribution. "Net Contribution" for this purposes means \$5,000,000.00. The County shall reserve the right and privilege of paying any or all of the principal of this balance prior to maturity, without the payment of unearned or penalty.

(b) The obligation of the County to make the payments required pursuant to the provisions of paragraph 3(a) hereof shall constitute general obligations for which its full faith and credit is pledged. The County agrees that, except as expressly provided herein, its obligation to make the payments required by paragraph 3(a) shall not be abated or reduced because of damage to or destruction of the New Facilities, or the inability of the Authority to operate the New Facilities, or any act of God. Furthermore, the County shall not exercise any right of set-off or any similar right with respect to such payments.

(c) The Authority shall continue to operate Cook Medical Center and the rural health clinic prior to the opening of the New Facility. In the event that the Authority ceases operation of Cook Medical Center or the rural health clinic prior to opening the New Facility, the County's obligations hereunder shall be abated for that time period.

4.

The Authority and the County agree as follows:

(a) The remedy for a breach of this Contract by either party shall be specific performance of the provision breached and payment of stated amounts due, when applicable, and in no event shall a party hereto be responsible for consequential or punitive damages.

(b) This Contract contains the entire agreement of the parties hereto with respect to the subject matter hereof.

(c) This Contract may only be modified by a written amendment executed by both parties.

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

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

(f) This Contract shall be construed and enforced in accordance with the laws of the State of Georgia.

(g) This Contract is solely between the parties hereto. There shall be no third-party beneficiaries hereof or reliance hereon by others. Notwithstanding the foregoing, the Authority may assign its rights under this Contract in order to secure financing for the Project, and the assignee in such event may enforce the same.

[Execution begins on next page]

IN WITNESS WHEREOF, the parties hereto, acting by and through their duly authorized officers, have caused this Contract to be executed in multiple counterparts under seal as of the day and year first above written.

COOK COUNTY, GEORGIA

By: _____
Chairman of the
Board of Commissioners

(SEAL)

Attest, and certified that this Contract is authorized by proper resolution of the Board of Commissioners and entered into the official minutes thereof:

Clerk of the Board of Commissioners

TIFT COUNTY HOSPITAL AUTHORITY

By: _____
Chairman

(SEAL)

Attest:

Secretary

[Signature Page to Intergovernmental Contract]