

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES MARSHALS SERVICE

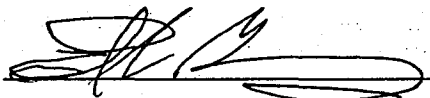
INTERGOVERNMENTAL COOPERATIVE AGREEMENT NUMBER 03-19-94

This Agreement is entered into between the United States Marshals Service and the City of Atlanta, Atlanta, Georgia, in accordance with the terms and conditions of Articles I through XI and Schedules A, B and C attached hereto.

The below individuals are authorized by law to accept and commit to this Agreement for and on the behalf of the:

UNITED STATES MARSHALS SERVICE

SIGNATURE: _____



TYPED NAME: Eduardo Gonzalez

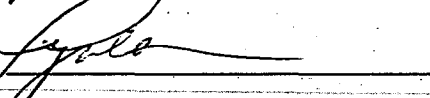
TITLE: Director

ADDRESS: 600 Army Navy Drive
Suite 1090
Arlington, Va. 22202-4210

DATE: _____

4/22/94

SIGNATURE: _____




TYPED NAME: Lynn H. Duncan

TITLE: United States Marshal

DATE: _____

2/23/94

SIGNATURE: _____



TYPED NAME: Bill Campbell

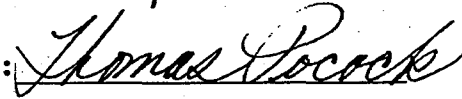
TITLE: Mayor

ADDRESS: 68 Mitchell Street, SE
Atlanta, Georgia 30335

DATE: _____

March 17, 1994

SIGNATURE: _____



TYPED NAME: Thomas Pocock

TITLE: Director of Corrections

DATE: _____

March 8, 1994

(Note: This CAP agreement is not a binding agreement and not effective until signed by the Director, U.S. Marshals Service.)

ARTICLE I

AUTHORITY

The United States Marshals Service is authorized to enter into cooperative agreements with local entities to establish necessary conditions of confinement and detention services in return for provided guaranteed bedspace for federal detainees as authorized in 18 U.S.C. § 4013(a)(4).

PURPOSE

The purpose of this Cooperative Agreement is to establish a legal relationship between the United States Marshals Service (USMS) and City of Atlanta (THE LOCAL GOVERNMENT). This Agreement is predicated upon the Federal government's requirement for detention space and services and the local government's provision of such services. All articles and schedules of this Agreement are binding upon the execution of this Agreement by both parties.

ARTICLE II

ASSURANCES

The Cooperative Agreement provides for Federal participation in the funding of local governmental jail construction, renovation or improvement programs. A local government receiving Federal funds is required to assure and certify that it will, as a condition of receiving the funds, comply with applicable Federal laws and regulations governing Grants and Cooperative Agreements. By acceptance of this Agreement the LOCAL GOVERNMENT so assures and certifies it will comply with the provisions, guidelines, regulations, and laws listed in Schedule A of this Agreement.

ARTICLE III

COOPERATIVE AGREEMENT PLAN (CAP)

- A. Negotiations between the LOCAL GOVERNMENT and the USMS have resulted in a formulation of a Cooperative Agreement Plan which is incorporated as Schedule B of this Agreement.
- B. Requests for modifications, deletions or additions to Schedule B may be made by the recipient's submission of a formal written request to the Chief, Prisoner Operations Division, USMS, or his/her designee who must approve all changes in writing. Neither the USM nor the CAP recipient has the authority to modify any terms or conditions included in this agreement.

- C. The recipient has verified and ensures that all project(s) specified on Schedule B meet applicable state and local laws, standards, policies, procedures or court orders governing or established for a detention facility.
- D. It is the responsibility of the recipient to plan, initiate, and oversee the completion of the project(s); to prepare quarterly progress reports and periodic requests for payments; to certify the accuracy of contractor and vendor billings; to ensure the cost efficient and timely completion of projects; and to immediately notify the U.S. Marshal in writing of any issues or problems real or anticipated which might affect the successful completion of the project(s) within the time frame and cost ceilings established in Schedule B.
- E. It is the responsibility of the U.S. Marshal or his/her designee to make monthly on-site inspections of the project(s) underway; to review and certify interim and final payment requests submitted by the recipient; to ensure that CAP funding ceilings are not exceeded; to provide USMS Headquarters with written recommendations on any proposed changes or modifications to this Agreement; and to immediately notify Headquarters in writing of any issues or problems, real or anticipated, which might affect the successful completion of the project(s) within the time frame and cost ceilings established in Schedule B.

ARTICLE IV

FUNDING LEVEL

- A. The USMS will provide Federal funding in an amount not to exceed \$1,000,000.00 for the project(s) listed on Schedule B from the Bureau of Prisons, Building and Facilities Appropriation.
- B. The LOCAL GOVERNMENT accepts responsibility for all costs associated with the project(s) which exceed the level of Federal funding provided.
- C. Funds specified and approved for one project shall not be transferred to another project or be used for any other purpose unless authorized by a written modification to this Agreement issued by the Associate Director for Operations Support, or his/her designee.
- D. USMS Headquarters is to be notified of any funds which will not be expended by the CAP recipient for any approved projects listed on Schedule B. It is the sole discretion of the USMS to determine whether funds not expended are to

be applied toward a new project. If so, a modification to the agreement will be executed to include the new project. If the USMS determines that a new project is not required, the remaining CAP funds will be deobligated.

ARTICLE V

SERVICE AND SPACE GUARANTEE

- A. The LOCAL GOVERNMENT agrees to accept and provide detention space and services for fifty (50) Federal prisoners each day from the date of acceptance of this Agreement until the completion of the projects listed on Schedule B.
- B. The LOCAL GOVERNMENT agrees to accept and provide detention space and services for three hundred (300) Federal prisoners, in USMS custody, each day upon the request of the U.S. Marshal at the Atlanta Pretrial Detention Center for a period of fifteen (15) years commencing on the date of completion and activation of all projects and the fulfillment of payments by the USMS. The USMS may initiate level of detention space and period of performance renegotiations at any time.
- C. The Intergovernmental Agreement (IGA) for the housing of Federal prisoners will remain in effect through the period specified in Article VB, and indefinitely thereafter until terminated in writing by either party.
- D. Per diem payments provided for in the IGA will continue to be negotiated in accordance with Federal Cost and Pricing Standards. The local government agrees to negotiate with the USMS in good faith and accept a jail day rate which is fully supported by actual and allowable jail operating costs. It is understood that county-wide indirect cost plans and costs of local law enforcement and local court support cost are not allowable for the computation of jail day rates.

ARTICLE VI

FINANCIAL PROVISIONS

- A. The USMS will obligate and reserve the total amount of funds established under this Agreement. Requests for reimbursement for work completed will be drawn up by the recipient on a Standard Form 270 (Request for Advance or Reimbursement) and submitted along with a CAP Reimbursement Detail Sheet to the U.S. Marshal for review and certification. Payment to the recipient will be made only after the prior review and written authorization by the Chief, Prisoner Operations Division or his/her designee.

Payments may not be issued to vendors or contractors. Payments will only be issued to recipients via electronic transfer of payment.

- B. The recipient certifies that all requests for payment submitted shall be supported by valid invoices which are in accordance with the projects authorized in Schedule B of this Agreement and subject to on-site inspection by the U.S. Marshal or his/her designee. Copies of paid invoices shall be clearly marked with the appropriate CAP project number they are charged to and maintained in CAP project files by the recipient. All such documentation shall be made available for review upon the request of the U.S. Marshal, USMS Headquarters, or a Federal audit agency.
- C. The recipient certifies that no request for payment will be submitted for work, materials or services which have been previously funded from Federal funds from any other source.
- D. The recipient will maintain such books, records, documents, evidence, and accepted accounting procedures and practices which will accurately reflect all costs relating to this Agreement for a period of at least three (3) years following completion of all the projects and final payment. All such documents will be subject to periodic on-site review as deemed necessary by the U.S. Marshal, USMS Headquarters staff, and Federal audit agencies.
- E. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-128, "Audits of State and Local Governments." In conjunction with the beginning date of the award, the audit report period of the state or local governmental entity to be audited under the single audit requirement is annually from the period of initial work completion authorized in Schedule B and reimbursements from the USMS are received. The audit report must be submitted within thirty (30) days after the audit and for each audit cycle thereafter covering the entire award period as originally approved or amended. The management letter must be submitted with the audit report. Subsequent audits must be submitted no later than thirteen (13) months after the close of the recipient organization's audited fiscal year. The submission of the audit report shall be as follows:

1. "An original and one copy of the audit report shall be sent to:

The Cognizant Federal Agency
Environmental Protection Agency

2. A copy of your audit transmittal letter addressed to the regional inspector general shall be sent to:

Audit Services
Atlanta Regional Audit Office
Suite 2322
101 Marietta Street
Atlanta, Georgia 30323

U.S. Marshals Service
Prisoner Operations Division
600 Army Navy Drive
Arlington, VA 22202-4210

3. The recipient agrees to submit their corrective action plan with the audit report to the DOJ Regional Audit Office, when there are findings/recommendations disclosed in the audit report. The corrective action plan should include: (1) specific steps taken to comply with the recommendations; (2) timetable for performance and/or implementation date for each recommendation; and (3) description of monitoring to be conducted to ensure implementation.
4. Failure to furnish an acceptable audit as determined by the cognizant agency may be a basis for withholding or denial of future Federal funds.

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- F. The recipient has the option to comply with the following special condition contained in the Treasury, Postal Service, and General Government Appropriations Act of 1993, Publ L. No. 102-393, § 623, 106 Stat. 1729, 1771 (1992). This clause will be enforced by the local entity on its subcontractors.

*** AWARDS \$500,000 OR MORE:**

DISCLOSURE OF FEDERAL PARTICIPATION: In compliance with Section 623 of Public L. No. 102-393, the recipient agrees that no amount of this Award shall be used to finance the

acquisition of goods or services (including construction services) for the Project unless the recipient:

- (a) specifies in any announcement of the awarding of the contract for the procurement of the goods and services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and
- (b) expresses the amount announced pursuant to paragraph (a) as a percentage of the total cost of the planned acquisition.

*** AWARDS UNDER \$500,000:**

There is no requirement for a special condition relating to the above appropriations law. Note that the previous special condition relating to disclosure of Federal participation in dollars and percentage has been replaced by the special condition mentioned above.

*** AWARD** is defined as the total award amount, including supplemental awards.

ARTICLE VII

DISPUTES

All questions of interpretation of any or all parts of this Agreement shall be first addressed and resolved by negotiation between the representative(s) of the LOCAL GOVERNMENT and the Chief, Prisoner Operations Division. Any disputes not resolved will be referred to the Associate Director for Operations Support and Chief Executive Officer of the LOCAL GOVERNMENT.

The Director, USMS, will be the final deciding official in all disputes concerning this Agreement, unless otherwise adjudicated in a court of law.

ARTICLE VIII

STOP WORK

- A. The recipient shall within thirty (30) days from the beginning of any delay, notify the Chief, Prisoner Operations Division, in writing of the causes of the delay. If, in the judgement of the Chief, Prisoner Operations Division the delay is warranted, the time for completing the work shall be extended by formal modification. The findings of the Chief, Prisoner Operations Division shall be final and conclusive on the local government, but is subject to resolution under the Disputes Clause in Article VII.

- B. The Chief, Prisoner Operations Division may issue and the LOCAL GOVERNMENT will accept a written order to Stop Work on one or more projects funded under this Agreement for a period of thirty (30) days. Such orders will be issued pursuant to sufficient cause, such as reason to believe work is being performed outside of the terms of Schedule B or for financial improprieties found during a monitoring inspection or voucher and records review. For project costs incurred during the Stop Work period, no CAP fund reimbursements will be processed for payment to the local government.
- C. A Stop Work Order may be continued, cancelled or reissued as an order of termination.
- D. The LOCAL GOVERNMENT is responsible for any costs incurred after the issuance of a Stop Work Order unless such work, material, equipment or services were purchased prior to the issuance of the Stop Work Order and delivery cannot be cancelled.

ARTICLE IX

TERMINATION

- A. This Agreement may be terminated in-full or in-part by the LOCAL GOVERNMENT at any time prior to the completion of the project(s) listed in Schedule B provided that all Federal funds received for the project(s) by the LOCAL GOVERNMENT are refunded in full to the USMS. USMS may determine that interest payments are applicable and are also due and payable from the LOCAL GOVERNMENT. If any CAP funds have been disbursed to the CAP recipient, reimbursement will include full repayment plus interest retroactive to the receipt of the first CAP payment. Interest will be calculated at prevailing interest rate at time of breach. All termination notices shall be made in writing by the LOCAL GOVERNMENT to the Chief, Prisoner Operations Division sixty (60) days prior to the effective date of the termination via registered mail.
- B. This Agreement may be terminated by the USMS at any time prior to the completion of the project(s) listed in Schedule B. Such terminations may be the result of the failure of the recipient to

start or complete a project in accordance with the agreement or any extension. A sixty (60) day written termination notice shall be made by the Chief, Prisoner Operations Division to the recipient.

- C. This Agreement shall not be terminated by either party after the completion of all projects and the issuance of final payment by the USMS unless by mutual agreement.
- D. This Agreement shall not be delayed, suspended or terminated by the CAP recipient for purposes of relieving overcrowded conditions due to the issuance of a federal or state court order or a state or local government entity directive. If the CAP recipient does this, it will be considered a breach of the agreement and subject to the terms of Article X. When faced with overcrowding conditions, it is the sole responsibility of the CAP recipient to identify and obtain alternative jail space so that the bedspace guarantees for the USMS under Article V will not be affected.

ARTICLE X

BREACH OF AGREEMENT

- A. CAP recipient agrees that it is responsible for providing all of the detention space and services to the USMS as outlined in Article V and if at any time it fails to do so may be considered by the USMS to be a formal breach of the CAP agreement as outlined in paragraph B. below.
- B. In the event detention space and services are not provided to the level guaranteed, the Associate Director for Operations Support may determine that a breach exists. However, before determining whether or not a formal breach of this CAP agreement has occurred, the USMS will:
 - 1. Issue a letter of inquiry via registered mail to the CAP recipient who will respond within thirty (30) days in writing to the Associate Director for Operations Support, the reasons for not providing detention space and services.
 - 2. Upon receipt of the written response, the Associate Director for Operations Support will determine if reasons for nonperformance (i.e., facility fire, natural disaster, inmate riot, etc.) are acceptable to the USMS and initiate formal negotiations to resolve noncompliance through revision of the terms of the agreement in a manner that is acceptable to the USMS.

3. If resolution of the nonperformance problem cannot be reached which is acceptable to the Associate Director for Operations Support then a formal breach of agreement notice will be issued and sent to the CAP recipient via registered mail.
- C. If the USMS issues a written notice of breach of agreement, the CAP recipient agrees that it will:
1. Refund all CAP funds provided under the CAP agreement within thirty (30) days of receiving written formal breach of CAP agreement notice by the USMS.
 2. If any CAP funds have been disbursed to the CAP recipient, reimbursement will include full repayment plus interest retroactive to the receipt of the first CAP payment. Interest will be calculated at prevailing interest rate at time of breach.
 3. The LOCAL GOVERNMENT also agrees to reimburse the USMS for all funding provided by this Agreement, and for all costs associated with the relocation of Federal prisoners to another facility including any jail costs over and above the per diem rate paid that would have been paid to the LOCAL GOVERNMENT for the entire period of performance.
- D. The provisions of this Article will be exercised by the USMS only after violation(s) of the provisions for guaranteed space has been established, and negotiations between the USMS and recipient have not resulted in an acceptable resolution to the USMS and a written notice of Breach of Agreement has been issued by the Associate Director for Operations Support.

ARTICLE XI

CAP ADMINISTRATIVE REQUIREMENTS

- A. Upon formal CAP award, the USMS shall provide written administrative packages to the CAP recipient and the U.S. Marshal (USM).
- B. CAP Recipient
 1. The CAP recipient is responsible for submitting through the USM to USMS Headquarters, Prisoner Operations Division, a quarterly progress report whether work has actually begun or not. The quarterly report should be received by the USM no later than

five (5) working days after the close of the quarter until all work is completed.

2. Failure to submit quarterly progress reports or comply with CAP administrative process may be interpreted as noncompliance with this Agreement and subject to terms and conditions of Article X of this agreement or comply with the CAP administrative procedures.
3. A final CAP close-out report shall be submitted by the recipient at the completion of all projects and after final payment is received which reflects the date of completion, date of activation, final costs, and includes a statement that the Cooperative Agreement is completed. This close-out report must be submitted no later than ninety (90) days after completion of the CAP agreement and preferably as soon as final payment is received.

C. USM

1. A written monthly progress report must be completed, reviewed and signed by the USM. The report must be submitted to Headquarters, Prisoner Operations Division on the 1st workday of the month after receipt of the administrative package. A progress report is required even if actual site work has not yet begun.
2. Once all work has been completed, the USM is required to immediately perform an on-site close-out inspection.
3. When the request for final payment is made, it must be accompanied by the CAP close-out report from the USM.

USMS COOPERATIVE AGREEMENT - SCHEDULE A
AGREEMENT NO. 03-19-94

The Participant hereby assures and certifies compliance with the below listed regulations, policies, guidelines, and requirements including OMB Circulars A-87, A-102/Common Rule (28 CFR, Part 66), and A-128 as they relate to the Project.

1. It possesses legal authority to apply for the grant, that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with Title VI of the Civil Rights Act of 1964 (Pub. L. No. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to execute this agreement.
3. It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.
4. It will comply with requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (Pub. L. No. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs.
5. It will comply with the provisions of the Hatch Act which limit the political activity of employees.
6. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of state and local governments.

7. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those that have family, businesses or other ties.
8. It will give the grantor agency or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant.
9. It will comply with 28 CFR, Part 66, Administrative Requirement for Grants and Cooperative Agreements to state and local Grants concerning requirements of law, program requirements, and other administrative requirements. The regulations were published in Federal Register of March 11, 1988 (pages 8034-8069).
10. It will comply with the audit provisions of OMB Circular A-128 (Audits of State and local Governments) and copies of each annual audit report shall be submitted to the appropriate cognizant agency and Department of Justice Regional Audit Office. The reports are to cover the period from initial award of the CAP Agreement until all the work authorized in Schedule B is completed and reimbursement from the USMS received.
11. It will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
12. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. No. 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal Financial Assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

13. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. § 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. § 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of Investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.0) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
14. It will comply with regulations implementing E.O. 12549, Debarment and Suspension, 28 CFR, Part 67. Prospective participants will submit certification regarding debarment, suspension and other responsibility matters in accordance with regulations.
15. It will comply with 31 U.S.C. § 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and provide Certification Regarding Lobbying and a Disclosure of Lobbying Activities Form, SF-LLL, if applicable, for awards of \$100,000 or more.
16. It will comply with the Drug-Free Workplace Act of 1988, 28 CFR, Part 67, Subpart F, and certify that it maintains a drug-free workplace in accordance with the regulations.
17. It will comply with Executive Order 12699, "Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction," January 5, 1990 and the Earthquake Hazard Reduction Program Act of 1977, as amended. In accordance with the National Institute of Standards and Technology (NIST) IR 4852, Interagency Committee on Seismic Safety in Construction (ICSSC) RP 2.1-A, Guidelines and Procedures for Implementation of the Executive Order on Seismic Safety of New Building Construction, it will comply with the following 1991 International Conference of Building Officials (ICBO) Uniform Building Codes as its seismic design standard for new design and construction:
 - (1) 1991 ICBO Uniform Building Code
 - (2) 1992 Supplement to the Building Officials and Code Administrators (BOCA) National Building Code
 - (3) 1992 Amendments to the Southern Building Code Congress (SBCC) Standard Building Code.

**UNITED STATES MARSHALS SERVICE
SCHEDULE B
COOPERATIVE AGREEMENT PLAN**

CAP AGREEMENT NO.: 03-19-94

PREPARED BY: Surluta D. Schatzman

FACILITY: Pretrial Detention Center

GOVT. UNIT: City of Atlanta

*ESTIMATED DATE ALL
PROJECT (S) COMPLETED: 7/95

*ESTIMATED DATE
BEDS AVAILABLE: 1/95

*ESTIMATED DATE
BEDS EXPIRE: 12/10

PROJECT NO.	PROJECT DESCRIPTION	USMS FUNDING CEILING
03-19-94 PP	<ol style="list-style-type: none"> 1. Construct and Equip New Jail Kitchen 2. Roof Repairs 3. Exterior Wall Detention System 4. Inspect & repair 59 Roanoke sliders. Replace broken components with re-manufactured parts. 5. Replace & remove sliding doors. Furnish & install 8250 Series, etc. 	\$1,000,000.00

This schedule reflects the final Cooperative Agreement Projects and their maximum allowable funding ceilings which have been negotiated and approved by the U.S. Marshals Service. Attachments (as required) will show how the work will be accomplished, detailed project descriptions, plans, specifications and quotations.

*These dates serve as pertinent CAP project time frames for bedspace availability. Any changes to these dates should be reflected on Schedule C, Recipient Quarterly CAP Progress Report. If the revised date exceeds a 90 day period, a modification to the CAP agreement will be initiated.