

- i. Cancer
- ii. Chronic kidney disease
- iii. COPD
- iv. Down Syndrome
- v. Heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies
- vi. Immunocompromised state from solid organ transplant
- vii. Obesity (BMI of 30 kg/m² or higher but < 40 kg/m²)
- viii. Severe Obesity (BMI ≥ 40 kg/m²)
- ix. Pregnancy
- x. Sickle cell disease
- xi. Type 2 diabetes mellitus

8. “Settlement Period” means from the date this agreement is entered into until the end of any state of emergency declared by the governor of South Carolina related to COVID-19 or the end of the national state of emergency regarding COVID-19 pursuant to the National Emergencies Act, whichever is later.

II. Intake, Screening, and Testing

9. Defendants’ intake protocol shall be revised as needed to enable identification of Medically Vulnerable detainees.
10. Defendants shall inquire at intake whether a detainee has received the COVID-19 vaccine and, if applicable, when they received it and whether they have received one or both doses.
- a. If the detainee has received one dose of a two-dose regimen, Defendants shall document when they received their first dose, the manufacturer of that dose, and when they should receive their second dose.
 - b. If the detainee’s period of incarceration is expected to or does include the period during which the detainee should receive their second dose, Defendants shall contact an appropriate healthcare provider within five days after the detainee is admitted to ensure that the detainee timely receives their second dose, subject to

the availability of the healthcare provider to come to the Jail to administer the second dose. Defendants shall not be responsible for transporting the detainee out of the Jail for administration of the second dose.

11. Defendants shall fully participate in efforts to schedule a testing and vaccination event coordinated by DHEC and the Arnold School of Public Health. Defendants shall also cooperate with any DHEC efforts to coordinate a) COVID-19 testing of all new detainees at the time of medical intake, and b) continue periodic on-site COVID-19 testing at the Jail for both detainees and staff. One or more representatives of Plaintiffs' shall be permitted to attend any meetings for this purpose to monitor and, where possible, assist with efforts to accomplish these goals. Defendants shall provide Plaintiffs' counsel with the de-identified results of all COVID-19 testing performed at any testing events within 5 days after those results are received or within 5 days after the date this settlement agreement is entered into, whichever is later.
12. As of the date of this Agreement, DHEC is performing bi-weekly COVID-19 Diagnostic Testing on site at the Jail and providing the results of that testing to Jail staff. Defendants agree that, for as long as the DHEC testing program continues, they will provide Plaintiffs' counsel with the de-identified results of all COVID-19 testing performed within 5 days after those results are received from DHEC or, in the case of testing performed prior to the date this settlement agreement is entered into, within 5 days after that date.
13. Defendants will make best efforts to continue the bi-weekly testing program with DHEC for, at minimum, the duration of the Settlement Period.
14. If for any reason the DHEC testing program ends or if testing frequency is reduced to less than bi-weekly before the end of the Settlement Period, Defendants agree to negotiate in good faith with Plaintiffs in an effort to reach an agreement which provides for testing to be performed by a third party vendor at no cost to Defendants, or for testing to be performed by Jail staff subject to the availability of testing supplies.
15. Defendants will make best efforts to coordinate with DHEC and/or any other DHEC authorized medical provider to provide vaccines to incarcerated individuals.

16. Defendants shall quarantine each new detainee entering the Jail pursuant to CDC guidance where possible and in any event for no fewer than five days.
17. Detainees held in isolation or quarantine because they have contracted or been exposed to COVID-19 shall have access to personal items and property, and medical care to the same extent as other detainees. Individual outdoor recreation time will be made available to quarantined detainees when at all possible.

III. Personal Protective Equipment

18. Within 5 days of the date of this agreement, all current detainees will be provided with one surgical mask. Masks with one-way vents shall not be used.
19. All individuals detained in the Jail during the Settlement Period will be provided with a surgical mask upon arrival at the Jail. Masks with one-way vents shall not be used.
20. Replacement surgical masks will be made available in the pods to all detainees at a secure location at all times.
21. All Jail staff will be required to wear a surgical mask or cloth face covering not less than two-ply at all times while on the Jail premises and/or on duty as outlined in Major Freeman's December 29, 2020 Memorandum to Jail staff. Masks with one-way vents shall not be used. This requirement shall remain in place during the Settlement Period.

IV. Sanitation

22. Hand sanitizer containing at least 60% alcohol will be made available to detainees in each of the pods in secure locations in the event there is no access to running water.
23. Defendants will provide detainees with sufficient CDC-compliant equipment and supplies to clean and disinfect their cells, and common areas, where they are required to do so, on a daily basis and throughout the day.
24. Defendants will instruct detainees on how to properly clean and disinfect their cells on a daily and as-needed basis.
25. Detainees with chemical sensitivity or mobility impairments shall be provided with such accommodations as are needed to ensure that their cells, and any other areas that they

would otherwise be responsible for cleaning or disinfecting, are properly cleaned and disinfected.

26. Regardless of indigency status, detainees shall at all times have unlimited access to hand soap and running water, subject to any unforeseen exigent circumstances outside of Defendants' control.

V. Housing and Social Distancing

27. Defendants shall not knowingly house Medically Vulnerable detainees in cells with detainees who have symptoms of COVID-19 or who have a pending or positive COVID-19 Diagnostic test.
28. Medically Vulnerable detainees shall be housed alone or only with other detainees who have been Fully Vaccinated or have received a positive COVID-19 Antibody Test within the past 90 days to the greatest extent possible.
29. Detainees who receive a positive COVID-19 Diagnostic Test will be placed in medical isolation pursuant to CDC guidelines. Clinical monitoring shall include twice-daily temperature checks, symptom screening, and pulse-oxygenation testing.
30. Defendants shall lay out tape markers at six-foot increments in areas where persons are required to line up or congregate for medications, security searches of cells and housing units, recreation, and food service, to indicate space to be maintained between individuals.

VI. Education

31. All detainees will be encouraged to wear masks while inside the Jail.
32. Signage, flyers, or other information produced by CDC or DHEC will be posted in each of the pods and all common areas and shared workspaces used by detainees or staff within 5 days of this agreement. This information will also be displayed on all television monitors in the Jail.¹

¹ Information produced by the CDC is available at:

What to know if you are incarcerated about COVID—

33. Defendants shall notify detainees of the availability of replacement masks and hand sanitizer at each secure location where these are made available.

VII. Vaccination

34. Staff. Defendants shall encourage all Jail staff to accept a COVID-19 vaccine as soon as one becomes available to them.

35. Detainees. Defendants shall fully participate in efforts to coordinate with DHEC and the Arnold School of Public Health to coordinate making the vaccine available to detainees at the earliest possible date, bringing in other stakeholders as necessary to implement any plan put in place. A representative of Plaintiffs' shall be permitted to attend this and any subsequent meetings for this purpose to monitor and, where possible, assist with efforts to accomplish these goals.

a. Current Detainees

- i. Within 5 days of the date of this agreement, Defendants shall notify all detainees of their eligibility for the COVID-19 vaccine, provide information² to these detainees about the vaccine, and ascertain whether these detainees wish to receive the vaccine.

https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/correction-detention/Incarcerated_Detained_Spanish-508.pdf

Resources for correctional facilities' staff –

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/list-resources-correctional-facilites.pdf>

Stop the Spread of Germs-

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/stop-the-spread-of-germs.pdf>

Vaccine information-

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/vaccines/facts-covid-vaccines-english-508.pdf>

Information for those who are pregnant-

https://www.cdc.gov/coronavirus/2019-ncov/downloads/communication/COVID-19_Pregnancy.pdf

Who is at higher risk-

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/COVID19-What-You-Can-Do-High-Risk.pdf>

² A flyer produced by the CDC is available at <https://www.cdc.gov/coronavirus/2019-ncov/downloads/vaccines/facts-covid-vaccines-english-508.pdf>

ii. For those detainees who wish to receive the vaccine, Defendants shall coordinate with DHEC and/or any healthcare provider administering the vaccine locally to arrange for these detainees to receive the vaccine as soon as practicable from DHEC and/or the provider administering the vaccine. Defendants shall not be responsible for transporting any detainee out of the Jail for purposes of vaccine administration.

b. Future Detainees. These provisions shall apply to detainees who 1) are detained on a sentence of 31 days or more; 2) have been detained for a period of at least 30 days and there are no grounds to believe they will be released within the next 30 days; 3) are detained pre-trial without bond; or 4) are federal prisoners.

i. Defendants shall notify all detainees at the time of intake of their eligibility to receive the COVID-19 vaccine, provide information³ to these detainees about the vaccine, and ascertain whether these detainees wish to receive the vaccine.

ii. For detainees who wish to receive the vaccine, Defendants shall coordinate with DHEC and/or any healthcare provider administering the vaccine locally to arrange for these detainees to receive the vaccine as soon as practicable from DHEC and/or the provider administering the vaccine. Defendants shall not be responsible for transporting any detainee out of the Jail for purposes of vaccine administration.

36. Staff and detainees who have received the COVID-19 vaccine shall continue to be required, in the case of staff, or encouraged, in the case of detainees, to use PPE according to CDC guidelines.

37. Defendants shall offer seasonal influenza vaccinations, at no out-of-pocket cost, to all detainees who are incarcerated for a minimum of 72 hours.

VIII. Efforts to Reduce Jail Population

38. Detention Diversion

³ See note 2

- a. Defendants shall provide additional and periodic guidance to patrol officers encouraging them to limit custodial arrests for non-violent offenses absent an imminent and particularized threat to public safety.
- b. Defendants shall restrict transfers of detainees from other jurisdictions, including federal prisoners, unless Defendants are required by law or pre-existing agreement to accept those detainees. Where transfer is necessary, Defendants shall quarantine each new detainee entering the Jail pursuant to CDC guidance where possible and in any event for no fewer than five days, when space is available.

39. Population Reduction

- a. Within 10 days of the date this Decree is entered into, Defendants shall contact 1) the Chief Magistrate and/or Associate Chief Magistrate of Spartanburg County, 2) the 7th Circuit Solicitor's Office, and 3) the 7th Circuit Public Defender's Office for the purpose of attempting to schedule a meeting to develop a process by which certain detainees can be presented for release (by PR bond or otherwise) or enlargement of custody to include home confinement. One or more representatives of Plaintiffs' shall be permitted to attend this and any subsequent meetings for this purpose to monitor and, where possible, assist with efforts to accomplish these goals.
- b. Detainees identified as Medically Vulnerable shall be eligible for this process.
- c. Detainees who have received a positive COVID-19 Diagnostic Test, and who are not otherwise Medically Vulnerable, shall be eligible for this process upon satisfaction of additional criteria, to be determined by DHEC, which establish whether release or enlargement of custody is consistent with good public health practice.

IX. COVID-19-Related Grievances and Requests for Medical Care

40. Defendants' existing grievance processes will be followed and grievances related to COVID-19 will be responded to promptly, if possible within 24 hours. The Kiosks will incorporate a specific COVID-19 tag or category to allow Defendants to identify

COVID-19 grievance requests and Defendants will notify detainees to use this tag or category when identifying COVID-19 related grievances/requests subject to Third-Party Administrator approval...

41. Staff shall direct detainees to the nearest kiosk when presented with a COVID-19-related grievance or request and shall assist the detainee in operating the kiosk if requested or needed.

X. Monitoring, Dispute Resolution, and Enforcement

42. The Defendants will comply with federal and state law regarding the access made available to Plaintiffs and their experts.
43. This Court shall retain jurisdiction over the parties for purposes of enforcing this Decree.
44. Dispute Resolution. If any party alleges non-compliance with this Decree, the following dispute resolution process shall apply:
 - a. Prior to seeking judicial remedies for non-compliance, the party alleging non-compliance shall notify the other party, through counsel, in writing that they believe the other party is out of compliance with the Decree and clearly invoking these dispute resolution provisions.
 - b. The parties shall engage in good faith negotiations for at least fourteen days, which may be extended by the consent of the parties, in an effort to resolve the matter.
 - c. Communications between the parties pursuant to subparagraphs (a) and (b) above shall remain confidential as settlement negotiations to the fullest extent permitted by law.
 - d. If the matter is not resolved through negotiations, it may be presented to the Court for resolution. If a matter is presented to the Court, the parties agree that the Court, in its discretion, may refer the matter to L. Lee Plumlee for mediation.
 - e. A party may bypass the dispute resolution provisions above and seek immediate relief from the Court if the party can clearly demonstrate that action or inaction in

contravention of this Decree has caused or is likely to cause an immediate and substantial risk of serious harm to others.

- f. If Plaintiffs seek enforcement of this Decree and obtain relief from the Court as a result of seeking such enforcement, Plaintiffs may seek an award of the reasonable attorneys' fees and costs incurred in seeking enforcement of this Decree. Should Plaintiffs elect to seek enforcement of this Decree and the Court deny the relief sought on grounds that Plaintiffs' action is frivolous, Defendants may seek an award of the reasonable attorneys' fees and costs incurred in responding to Plaintiffs' attempt to seek such enforcement.

XI. Waiver of Claims

45. Plaintiffs will withdraw their motion to compel filed on January 26, 2021 (ECF No. 60) and waive any claims to sanctions or attorneys' fees arising therefrom.

XII. Termination of Decree

46. Upon expiration of the Settlement Period and the conclusion of any outstanding dispute resolution, mediation, or court proceedings concerning alleged non-compliance with this Decree:
 - a. The provisions of this Decree shall expire and shall no longer have any force or effect;
 - b. The parties shall jointly stipulate to the dismissal of the Litigation without prejudice, including all claims and counterclaims raised therein, with each party to bear its own costs and attorney's fees.

XIII. Miscellaneous

47. This Decree may be modified only upon the written consent of the parties.
48. This Decree constitutes the entire agreement of the parties with respect to the subject matters contained therein and supersedes all prior agreements, representations, statements, negotiations, and undertakings.
49. This Decree shall be applicable to and binding upon all settling parties and their respective officers, agents, employees, contractors, assigns, and successors in office.

50. All parties to this Decree have participated in its drafting and any ambiguity shall not be construed either for or against any party.

AND IT IS SO ORDERED

s/Bruce Howe Hendricks

THE HONORABLE BRUCE HOWE HENDRICKS
U.S. DISTRICT JUDGE

Dated: July 20, 2021

Respectfully Agreed to and Submitted by:

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