



Fulton County Board of Commissioners
Agenda Item Summary

BOC Meeting Date
 October 15, 2014

Requesting Agency

Facilities and Transportation Services

Commission Districts Affected

All

Requested Action (*Identify appropriate Action or Motion, purpose, cost, timeframe, etc.*)

Request approval of Right of Entry and License Agreement to allow the Old Fourth Ward Freedom Barkway Corporation, a Georgia 501(c)(3) non-profit, use of County Owned Real Property at Glen Iris and Highland Drive on October 25, 2014

Requirement for Board Action (*Cite specific Board policy, statute or code requirement*)

Approval of use agreement

Is this Item Goal Related? (*If yes, describe how this action meets the specific Board Focus Area or Goal*)

No

Is this a purchasing item?

No

Summary & Background

(First sentence includes Agency recommendation. Provide an executive summary of the action that gives an overview of the relevant details for the item.)

Facilities & Transportation Services recommends approval of Right of Entry and License Agreement to allow the Old Fourth Ward Freedom Barkway Corporation, A Georgia 501(c)(3)non-profit, use of the Property at Glen Iris and Highland Drive for their yearly "Howloween"Parade and Festival on October 25, 2014. The parade and festival are an annual fundraiser to raise funds for the construction of a neighborhood dog park in the Old Fourth Ward. Use of this property for seating will allow the participants to enjoy the music and festival under the shade.

Contract & Compliance Information

(Provide Contractor and Subcontractor details.)

| Agency Director Approval | | County Manager's Approval |
|--|------------------------------|----------------------------------|
| Typed Name and Title Patrick O'Connor, Interim Director Facilities and Transportation Services Department | Phone 404-612-8335 | |
| Signature | Date | |

Revised 03/12/09 (Previous versions are obsolete)

| Agency Director Approval | | County Manager's Approval |
|---|-----------------------|---------------------------|
| Typed Name and Title Patrick O'Connor, Interim Director Facilities and Transportation Services Department | Phone 404-612-8335 | |
| Signature | Date | |

Revised 03/12/09 (Previous versions are obsolete)

| Solicitation Information | NON-MFBE | MBE | FBE | TOTAL |
|--------------------------|----------|-----|-----|-------|
| No. Bid Notices Sent: | | | | |
| No. Bids Received: | | | | |

| | |
|----------------------|---|
| Total Contract Value | . |
| Total M/FBE Values | . |
| Total Prime Value | . |

| | |
|---------------------------------------|---|
| Fiscal Impact / Funding Source | <i>(Include projected cost, approved budget amount and account number, source of funds, and any future funding requirements.)</i> |
| No Fiscal Impact | |

| | |
|--|--|
| Exhibits Attached | <i>(Provide copies of originals, number exhibits consecutively, and label all exhibits in the upper right corner.)</i> |
| Exhibit 1 – Right of Entry and License Agreement between Fulton County and the Old Fourth Ward Freedom Barkway Corporation | |

| | |
|--|---|
| Source of Additional Information | <i>(Type Name, Title, Agency and Phone)</i> |
| Patrick O'Connor, Interim Director, Facilities and Transportation Services | (404) 612-8335 |
| Jerry Williams, Greater Fulton Area Manager, | (404) 612-3739 |

| Agency Director Approval | | County Manager's Approval |
|---|--------------|---------------------------|
| Typed Name and Title | Phone | |
| Patrick O'Connor, Interim Director Facilities and Transportation Services Department | 404-612-8335 | |
| Signature | Date | |

Revised 03/12/09 (Previous versions are obsolete)

Procurement

| | | | |
|--|---|-----------------------------|-----------------------------|
| Contract Attached: . | Previous Contracts: . | | |
| Solicitation Number: . | Submitting Agency: . | Staff Contact: . | Contact Phone: . |
| Description: . | | | |
| FINANCIAL SUMMARY | | | |
| Total Contract Value: Original Approved Amount: . Previous Adjustments: . This Request: . TOTAL: . | MBE/FBE Participation: Amount: . %: . Amount: . %: . Amount: . %: . Amount: . %: . | | |
| Grant Information Summary: Amount Requested: <input type="checkbox"/> Cash Match Required: <input type="checkbox"/> In-Kind Start Date: <input type="checkbox"/> Approval to Award End Date: <input type="checkbox"/> Apply & Accept Match Account \$: . | | | |
| Funding Line 1: . | Funding Line 2: . | Funding Line 3: . | Funding Line 4: . |

KEY CONTRACT TERMS

| | |
|------------------------------|--------------------------------------|
| Start Date: . | End Date: . |
| Cost Adjustment: . | Renewal/Extension Terms: . |

ROUTING & APPROVALS

(Do not edit below this line)

| | | | |
|---|--------------------------------------|-------------------|-----------------|
| X | Originating Department: | Kelly, Karen | Date: 10/8/2014 |
| . | County Attorney: | . | Date: . |
| . | Purchasing/Contract Compliance: | . | Date: . |
| . | Finance/Budget Analyst/Grants Admin: | . | Date: . |
| . | Grants Management: | . | Date: . |
| X | County Manager: | O'Connor, Patrick | Date: 10/9/2014 |

LICENSE AND RIGHT OF ENTRY AGREEMENT

THIS LICENSE AND RIGHT OF ENTRY AGREEMENT (the "License") is made and entered into this ____ day of October ____, 2014 by and between **Old Fourth Ward Freedom Barkway Corporation**, a Georgia 501(c)(3) non-profit corporation ("Licensee") and **FULTON COUNTY, GEORGIA**, a political subdivision of the State of Georgia ("Licensor" or "County").

WITNESSETH:

WHEREAS, County is the owner of certain real property located at Glen Iris Drive NE Rear, bearing Fulton County Parcel Identification Number 14-0019-0001-075-1 for tax purposes, and being more particularly described on Exhibit "A" attached hereto (the "Property"); and

WHEREAS, Licensee is a Georgia 501(c)(3) non-profit corporation that fundraises to build a neighborhood dog park in the heart of the Old Fourth Ward community in Atlanta, Georgia; and

WHEREAS, Licensee is hosting a fundraiser, "Howloween," to raise funds for the neighborhood dog park, which shall be held on Saturday, October 25, 2014 on North Highland Avenue in Atlanta, Georgia, and which shall include a pet parade and a festival; and

WHEREAS, County agrees to grant a right of entry and license to Licensee to allow Licensee to utilize the Property on Saturday, October 25, 2014 for seating during the festival.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) the premises, mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Right of Entry.

(a) County hereby grants to Licensee a non-exclusive, revocable right to enter upon the Property for the purpose of seating during the Howloween festival on Saturday, October 25, 2014. Licensee shall have the right to place lawn chairs and blankets/towels on the grass for the purpose of seating.

(b) Licensee's rights pursuant to Section 1(a) above are subject to the following conditions:

(i) To the extent permitted by law, Licensee shall indemnify, defend and hold harmless Owner from and against all liability, loss, costs, damage or expense (including reasonable attorney's fees) (individually and collectively, "Costs") which Owner may sustain by reason of any activity of Licensee, its contractors, agents, invitees, guests, representatives or third parties upon the Property, including, without limitation, damages or bodily injury caused by

Licensee's activity. Notwithstanding anything contained in the Agreement, the indemnification obligations prescribed in this Section shall survive the expiration or termination of the Agreement.

(ii) Licensee shall obtain commercial general liability insurance insuring against injuries or damages to persons or property sustained on the Property, with a combined single limit of not less than One Million Dollars (\$1,000,000), naming Owner as an additional insured; and prior to any entry onto the Properties, Licensee shall furnish Owner with a copy of a certificate of insurance in form and substance satisfactory to Owner.

(iii) Licensee's rights pursuant to this License shall terminate on October 25, 2014 at midnight.

2. Miscellaneous.

(a) Entire Agreement - No Oral Modifications. This License and the exhibits hereto constitute the final and complete agreement, and supersede all prior correspondence, memoranda or agreements between the parties relating to the subject matter hereof. This License cannot be changed or modified other than by a written agreement executed by both parties.

(b) Successors Bound. The provisions of this License shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns.

(c) Governing Law. This License shall be governed by and construed in accordance with the laws of the State of Georgia.

(d) Counterparts. This License may be executed in more than one counterpart, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Legible fax copies and photocopies of documents signed by either party are deemed to be equivalent to originals.

(e) Captions. The captions of this License are inserted solely for convenience of reference only and do not define, describe or limit the scope or intent of this License or any term hereof.

(f) Exhibits. All exhibits attached hereto are hereby incorporated herein by reference and made a part hereof.

IN WITNESS WHEREOF, the parties have entered into this License as of the day and year first set forth above.

[Signatures on following page]

LICENSEE:

OLD FOURTH WARD FREEDOM BARKWAY CORPORATION,
a nonprofit Georgia corporation

By: _____
Its: _____

[CORPORATE SEAL]

OWNER:

FULTON COUNTY, GEORGIA

John H. Eaves, Commission Chair
Board of Commissioners

ATTEST:

Mark Massey
Clerk to the Commission (Seal)

Approved as to Form:

Office of the County Attorney

Approved as to Content:

Patrick J. O'Conner, County Manager

Exhibit "A"

Legal Description

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 19 of the 14th District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the north side of Highland Avenue and the east side of Glen Iris Drive, and running thence easterly along the north side of Highland Avenue 133 feet to the west side of a rock wall; thence north with an interior angle of 90 degrees 51 minutes, 120 feet to a point; thence westerly with an interior angle of 89 degrees 9 minutes, 37 feet to a point; thence northerly and with an interior angle of 270 degrees 51 minutes to the last described call, 27 feet to a point; thence westerly with an interior angle of 89 degrees 9 minutes to a the last call, 96 feet to a point on the eastern side of Glen Iris Drive; thence with an interior angle of 90 degrees 51 minutes to the last described call, 147 feet south along the easterly side of Glen Iris Drive to the point on the north side of Highland Avenue and the point of beginning, being the same property conveyed by Downing Brown to W.R. Cox June 27, 1958 by Warranty Deed recorded in Fulton County, Georgia Deed Book 3346, Page 191.

LESS AND EXCEPT the following described property out of said Warranty deed, conveyed by W.R. Cox to the State Highway Department of Georgia by Right-of-Way Deed dated November 13, 1968, and recorded in Fulton County, Georgia, Deed Book 4983, Page 481:

ALL THAT TRACT OR PARCEL OF LAND lying and in Land Lot 19 of the 14th Land District of Fulton County, Georgia, being more particularly described as follows:

BEGINNING at the intersection of the existing northerly street line of Highland Avenue with the existing easterly street line of Glen Iris Drive, N.E., in the city of Atlanta, Georgia, said point of intersection also being the southwest property corner of the property known as 600 Highland Avenue; running thence northerly along said existing easterly street line thirty-four and fifty-four hundredths (34.54) feet to a point one-hundred sixty-six and twenty-one hundredths (166.21) feet northwesterly of and opposite Station 49+40.96 on the survey center line of Georgia Highway Project I 485-1 (46); thence northeasterly along a straight line which is established by said point opposite said Station 49+40.96 and a point one-hundred fifty-eight and forty seven hundredths (158.47) feet northwesterly of and opposite Station 53+44.74 on said survey center line one-hundred forty-eight and three-tenths (148.3) feet to the intersection of an east property line said property at a point one-hundred sixty-three and thirty-seven hundredths (163.37) feet northwesterly of and opposite Station 50+89.23; thence southerly along said east property line one-hundred and four-tenths (100.4) feet to the intersection of said existing northerly street line; thence westerly along said existing northerly street line one-hundred thirty-three (133) feet back to the point of beginning.

Leaving the following described property as being actually conveying herein:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 19 of the 14th District of Fulton County, Georgia, being more particularly described as follows:

BEGINNING at a point at the northeast corner of Glen Iris Drive and Highland Avenue, N.E., and running thence northerly along the easterly side of Glen Iris Drive thirty-four and fifty-four one hundredths (34.54) feet to the true point of beginning;

Running thence northeasterly one hundred, forty-eight and three-tenths (148.3) feet to a point on the easterly side of the property as conveyed by Downing Brown to W.R. Cox by deed dated June 27, 1958, recorded in Fulton County, Georgia Deed Book 3346, Page 191, said point being one hundred and four tenths (100.4) feet northerly from the north side of Highland Avenue; running thence northerly nineteen and six-tenths (19.6) feet to a point ; thence westerly with an interior angle of 89 degrees 9 minute, 37 feet to a point; thence northerly and with an interior angle of 270 degrees 51 minutes to the last described call, 27 feet to a point; thence westerly with an interior angle of 89 degrees 9 minutes to the last call, 96 feet to a point on the eastern side of Glen Iris Drive; thence with an interior angle of 90 degrees 51 minute to the last described call, one hundred twelve and forty-six one-hundredths (112.46) feet along the easterly side of Glen Iris Drive to the true point of beginning.